
From: Tom Wilcox <tom@twilcoxlaw.com>
Sent: Wednesday, March 2, 2022 11:05 AM
To: Wayland, Joshua
Cc: Lissa Druss; Carie Anne Ergo
Subject: RE: Scoping - CP-KCS
Attachments: Itasca_Opening_Comments_FD_36500.pdf

Josh – Following up our prior correspondence, attached is a courtesy copy of the Opening Comments and Request for Conditions of the Coalition to Stop CPKC filed on 2/28. The Coalition members anticipate supplementing the information in their filing during the Draft EIS process, and welcome OEA’s analysis of these and the other effects of the proposed merger on communities and the environment in general.

Please do not hesitate to call or email me if you have any questions or desire additional information.

Regards,
Tom

Thomas W. Wilcox
Law Office of Thomas W. Wilcox, LLC
Office: 202.508.1065
Mobile: 202.365.8409
1629 K. Street, NW Suite 300
Washington, DC 20006
tom@twilcoxlaw.com | www.twilcoxlaw.com

This message contains information that may be confidential and privileged. Unless you are the addressee (or authorized to receive for the addressee), you may not use, copy or disclose to anyone the message or any information contained in the message. If you have received the message in error, please advise the sender by reply e-mail and delete the message.

From: Wayland, Joshua <Joshua.Wayland@stb.gov>
Sent: Thursday, January 13, 2022 4:54 PM
To: Tom Wilcox <tom@twilcoxlaw.com>
Subject: RE: Scoping - CP-KCS

Tom,

Thank you for your question. In the coming weeks, OEA will be issuing a Final Scope of Study for the EIS that will set forth the range of issues that will be analyzed. As you note, environmental reviews in previous merger cases have addressed grade crossing safety and rail operations safety. The NOI also lists rail safety and crossing safety as potential topics for the EIS and we received many comments from individuals and agencies expressing concern about safety. Therefore, it would be appropriate for the EIS to consider those issues and I expect that the Final Scope of Study will confirm that they will be included in the EIS and will provide additional details about how they will be assessed.

Please feel free to call to me at the phone number below if you would like to discuss further.

Best,

Josh

Joshua Wayland, PhD
Environmental Protection Specialist
Office of Environmental Analysis
Surface Transportation Board
202.245.0330

From: Tom Wilcox <tom@twilcoxlaw.com>
Sent: Friday, January 7, 2022 2:53 PM
To: Wayland, Joshua <Joshua.Wayland@stb.gov>
Subject: RE: Scoping - CP-KCS

Hello Joshua – I hope you are doing well. I am writing to obtain confirmation that the EIS process will encompass the review of crossing safety and other safety type issue and mitigation measures, as has been the case in past mergers. As stated below, I am representing a group of smaller cities and towns outside of Chicago that are located on one of the affected lines of railroad. They have a fair amount of safety issues, which they set out in their EIS scoping letters. They will also be submitting comments on 2/28 but I wanted to make sure that the process still entails safety and crossing type issues to be considered during the EIS process, since those comments will be later this year. Thanks, and feel free to give me a call if you have any questions.

Regards,
Tom Wilcox

Thomas W. Wilcox
Law Office of Thomas W. Wilcox, LLC
Office: 202.508.1065
Mobile: 202.365.8409
1629 K. Street, NW Suite 300
Washington, DC 20006
tom@twilcoxlaw.com | www.twilcoxlaw.com

This message contains information that may be confidential and privileged. Unless you are the addressee (or authorized to receive for the addressee), you may not use, copy or disclose to anyone the message or any information contained in the message. If you have received the message in error, please advise the sender by reply e-mail and delete the message.

From: Wayland, Joshua <Joshua.Wayland@stb.gov>
Sent: Friday, December 17, 2021 2:23 PM
To: Tom Wilcox <tom@twilcoxlaw.com>
Subject: RE: Scoping - CP-KCS

Tom,

I wanted to make sure that you were aware that the scoping period for the Environmental Impact Statement for the proposed acquisition of KCS by CP was extended until January 3. Here is the link to the Notice announcing the extension: https://dcms-external.s3.amazonaws.com/DCMS_External_PROD/1639755046668/51072.pdf. Please let me know if you have any questions.

Best,
Josh

Joshua Wayland, PhD

Environmental Protection Specialist
Office of Environmental Analysis
Surface Transportation Board
202.245.0330

From: Tom Wilcox <tom@twilcoxlaw.com>
Sent: Monday, December 13, 2021 10:34 AM
To: Wayland, Joshua <Joshua.Wayland@stb.gov>
Cc: Gosselin, Danielle <Danielle.Gosselin@stb.gov>; Navecky, David <David.Navecky@stb.gov>; Rutson, Vicki <Vicki.Rutson@stb.gov>
Subject: RE: Scoping - CP-KCS

Thanks, Joshua. Understood. I am getting up to speed with this new client group and so am learning why they did not believe they received adequate prior notice. I'll pass that info on to you for future reference and feedback. In the meantime, they are putting comments together for submittal on 12/17. Having the chance to supplement if they miss something this week will be helpful. And yes, we are aware of the website. I was looking for the recorded scoping meetings to get further up to speed.

Thanks,
Tom

Thomas W. Wilcox
Law Office of Thomas W. Wilcox, LLC
Office: 202.508.1065
Mobile: 202.365.8409
1629 K. Street, NW Suite 300
Washington, DC 20006
tom@twilcoxlaw.com | www.twilcoxlaw.com

This message contains information that may be confidential and privileged. Unless you are the addressee (or authorized to receive for the addressee), you may not use, copy or disclose to anyone the message or any information contained in the message. If you have received the message in error, please advise the sender by reply e-mail and delete the message.

From: Wayland, Joshua <Joshua.Wayland@stb.gov>
Sent: Monday, December 13, 2021 10:22 AM
To: Tom Wilcox <tom@twilcoxlaw.com>
Cc: Gosselin, Danielle <Danielle.Gosselin@stb.gov>; Navecky, David <David.Navecky@stb.gov>; Rutson, Vicki <Vicki.Rutson@stb.gov>
Subject: RE: Scoping - CP-KCS

Tom,

Thank you for reaching out about the scoping process for the proposed acquisition of KCS by CP. As you know, OEA needs to complete the environmental review for the proposed acquisition within the timelines set forth in 49 U.S.C § 11325. The deadline for scoping comments is December 17, 2021 and interested parties should submit scoping comments by that date to ensure that their concerns are addressed in the Final Scope of Study for the Environmental Impact Statement. As is the Board's typical practice, any late-filed comments received after the due date will be posted publicly to the Board's website and will be addressed to the extent possible.

In case you are not already aware, please note that OEA is maintaining a project website for the proposed acquisition at www.CP-KCSMergerEIS.com that includes the scoping materials, such as a virtual public meeting room, recorded public

scoping meetings, and a presentation about the proposed acquisition and the Board's environmental review process. These materials may be of interest to your clients.

Please feel free to reach out to me if you have further questions.

Best,
Josh

Joshua Wayland, PhD
Environmental Protection Specialist
Office of Environmental Analysis
Surface Transportation Board
202.245.0330

From: Tom Wilcox <tom@twilcoxlaw.com>
Sent: Monday, December 13, 2021 7:43 AM
To: Wood, Diana <Diana.Wood@stb.gov>
Cc: Wayland, Joshua <Joshua.Wayland@stb.gov>
Subject: RE: Scoping - CP-KCS

OK. Thanks for the information, Diana. Josh, what are your reactions to the question below. Feel free to call me if you wish to discuss.

Regards,
Tom

Thomas W. Wilcox
Law Office of Thomas W. Wilcox, LLC
Office: 202.508.1065
Mobile: 202.365.8409
1629 K. Street, NW Suite 300
Washington, DC 20006
tom@twilcoxlaw.com | www.twilcoxlaw.com

This message contains information that may be confidential and privileged. Unless you are the addressee (or authorized to receive for the addressee), you may not use, copy or disclose to anyone the message or any information contained in the message. If you have received the message in error, please advise the sender by reply e-mail and delete the message.

From: Wood, Diana <Diana.Wood@stb.gov>
Sent: Monday, December 13, 2021 7:34 AM
To: Tom Wilcox <tom@twilcoxlaw.com>
Cc: Wayland, Joshua <Joshua.Wayland@stb.gov>
Subject: RE: Scoping - CP-KCS

Hi Tom,

I'm sure Danielle has already responded back that the PM on this project is Josh Wayland (I was off on Friday).

Thanks,
Diana

From: Tom Wilcox <tom@twilcoxlaw.com>

Sent: Friday, December 10, 2021 2:54 PM

To: Wood, Diana <Diana.Wood@stb.gov>; Gosselin, Danielle <Danielle.Gosselin@stb.gov>

Subject: Scoping - CP-KCS

Diana and Danielle – I was retained yesterday by a group of smaller cities and villages in Illinois outside of Chicago to help them participate in the CP-KCS merger proceeding. They say they did not receive notice of the STB's intent to prepare an EIS in time to participate in any of the scoping meetings. They are now scrambling a bit to submit scoping comments by 12/17. Can they file initial comments and then supplement them before the end of the year, or is 12/17 the dropdead date? Thanks very much in advance for any guidance on this.

Regards,

Tom

Thomas W. Wilcox

Law Office of Thomas W. Wilcox, LLC

Office: 202.508.1065

Mobile: 202.365.8409

1629 K. Street, NW Suite 300

Washington, DC 20006

tom@twilcoxlaw.com | www.twilcoxlaw.com

This message contains information that may be confidential and privileged. Unless you are the addressee (or authorized to receive for the addressee), you may not use, copy or disclose to anyone the message or any information contained in the message. If you have received the message in error, please advise the sender by reply e-mail and delete the message.



LAW OFFICE OF THOMAS W. WILCOX, LLC
1629 K. STREET, NW SUITE 300
WASHINGTON, DC 20006

(202) 508-1065 (O)

(202) 365-8409 (C)

TOM@TWILCOXLAW.COM

WWW.TWILCOXLAW.COM

February 28, 2022

By E-Filing

Ms. Cynthia T. Brown
Chief, Section of Administration
Surface Transportation Board
395 E Street, SW
Washington, DC 20423

Re: STB Finance Docket No. 36500, *Canadian Pacific Ry., et al. – Control – Kansas City Southern, et al.*

Dear Ms. Brown:

Accompanying this letter for filing in the captioned docket are the Opening Comments and Request for Conditions (“Opening Comments”) of the Village of Itasca, on behalf of itself and the Village of Bensenville, Illinois, City of Wood Dale, Illinois, Village of Roselle, Illinois, Village of Schaumburg, Illinois, Village of Hanover Park Illinois, Village of Bartlett, Illinois, and City of Elgin, Illinois (collectively, the Coalition to Stop CPKC).

As noted in footnote 1 of these Opening Comments, the Village of Itasca assumed the role of the official Party of Record for the coalition in a filing dated December 13, 2021. Subsequently, on February 22, 2022, the eight villages and towns formalized their coalition through an intergovernmental agency agreement, which in part determined that the group would utilize the name “Coalition to Stop CPKC.” While the Village of Itasca remains the lead municipality and the Party of Record for the Coalition to Stop CPKC, to the extent that the Board concludes that the Coalition to Stop CPKC should also be a Party of Record, the Village of Itasca hereby asks the Board to make that designation, and that the undersigned counsel should receive copies of all pleadings served on the Coalition. The Village of Itasca asserts that no party would be harmed by this ministerial addition to the list of parties of record.

Law Office of Thomas W. Wilcox, LLC

Letter to Cynthia Brown
February 28, 2022
Page 2

Please do not hesitate to call me if you have any questions.

Sincerely,



Thomas W. Wilcox

*Attorney for the Village of Itasca, Illinois
and the Coalition to Stop CPKC*

Enclosure

CC: All parties on the official service list

CONTAINS COLOR IMAGES

BEFORE THE
SURFACE TRANSPORTATION BOARD

Finance Docket No. 36500

CANADIAN PACIFIC RAILWAY LIMITED; CANADIAN PACIFIC RAILWAY
COMPANY; SOO LINE RAILROAD COMPANY; CENTRAL MAIN & QUEBEC
RAILWAY US INC.; DAKOTA, MINNESOTA & EASTERN RAILROAD CORPORATION;
AND DELAWARE & HUDSON RAILWAY COMPANY, INC.

—CONTROL—

KANSAS CITY SOUTHERN, THE KANSAS CITY SOUTHERN RAILWAY COMPANY,
GATEWAY EASTERN RAILWAY COMPANY, AND THE TEXAS MEXICAN RAILWAY
COMPANY

OPENING COMMENTS AND REQUEST FOR CONDITIONS
OF THE COALITION TO STOP CPKC

Pursuant to the procedural schedule adopted by the Surface Transportation Board (“STB” or “Board”) in this proceeding on November 23, 2021, the Village of Itasca, Illinois (“Itasca”), on behalf of itself and the Village of Bensenville, Illinois, City of Wood Dale, Illinois, Village of Roselle, Illinois, Village of Schaumburg, Illinois, Village of Hanover Park Illinois, Village of Bartlett, Illinois, and City of Elgin, Illinois (collectively called the Coalition to Stop CPKC (“Coalition”))¹, hereby submit their Opening Comments and Request for Conditions (“Opening

¹ On December 13, 2021, the Village of Itasca, which is the lead entity of the coalition, submitted a Notice of Intent to Participate on behalf of itself and the seven other referenced

Comments”) in response to the Control Application. A summary description of each member of the Coalition is included in Attachment A to these Opening Comments.

I. Introduction

Each member of the Coalition is located along a segment of a line of railroad in the vicinity of Chicago, Illinois operated by the Soo Line Railroad Company (“CP”) known as the Elgin Subdivision. Although CP conducts freight operations on the Elgin Subdivision, the tracks are owned by the Commuter Rail Division of the Regional Transportation Authority d/b/a Metra (“Metra”), which designates this part of its system the Milwaukee District West Line (“MD-W Line”). Consequently, the rail tracks at issue are primarily utilized as a commuter rail line for the approximately 325,000 residents who live in the Coalition’s communities between downtown Chicago and Elgin, Illinois. Maps of the MD-W Line, and of the locations of the individual Coalition members are included as Attachment B to this filing.

For the reasons discussed in these Opening Comments, the Board cannot approve the subject transaction as proposed because the newly merged CPKC would nearly *triple* the current level of freight rail trains on the Elgin Subdivision in three years - while also increasing the length of its trains – plans that would cause immeasurable, collective harm to all the Coalition member communities. Applicants have not explained anywhere in the Application how their plans for this

municipalities. Consequently, the Village of Itasca assumed the role of the official Party of Record for the coalition for purposes of the Board’s decision in this proceeding served on November 23, 2021. On February 22, 2022, the eight villages and towns formalized their coalition through an intergovernmental agency agreement (“IGA”), which in part determined that the group would utilize the name “Coalition to Stop CPKC.” While the Village of Itasca remains the lead municipality and the Party of Record in this proceeding, to the extent that the Board concludes that Coalition to Stop CPKC should also be a Party of Record, the Village of Itasca hereby asks that the Board make that designation, and that the undersigned counsel should receive copies of all pleadings served on the Coalition. The Village of Itasca asserts that no party would be harmed by this ministerial addition of the Coalition to the list of parties of record.

line, which was not constructed to accommodate freight rail traffic on the levels projected in the Application, will be operationally feasible or safe. Moreover, the Coalition believes the Applicants have substantially understated the extent to which they will increase freight rail movements over this line in the first three years after the merger.

Each Coalition member has conducted a preliminary review and analysis of the measures that would have to be taken to even contemplate accommodating the Applicant's proposed plans to increase freight service on the Elgin Subdivision at least 300%. The Coalition will continue to refine their respective and collective efforts and to actively engage in the environmental review process being undertaken by the Office of Environmental Analysis ("OEA").² However, as summarized in Attachment C to these Opening Comments,³ the number of measures identified to date that would have to be taken to even try to accommodate Applicants' operating plans post-merger is in the hundreds, and the aggregate total of the preliminary estimates⁴ of the costs to implement them range between \$5.5 and \$9.5 *billion*. These measures include, but are by no means limited to:

- Construction of train stations, related facilities, and track upgrades in the City of Elgin at an estimated cost of between \$5.0 - \$8.9 billion depending on the measure.

² For example, each member of the Coalition submitted comments to OEA in response to its request for input on the proper scope of the Environmental Impact Statement for the merger transaction.

³ Maps illustrating some of the key mitigation measures for each Coalition member are collected in Attachment D to these Opening Comments.

⁴ To date, the Coalition members have conducted varying degrees of analysis and design of the potential mitigation measures utilizing available expertise and within budgetary constraints. As such, the estimated costs associated with the mitigation measures identified to date are necessarily preliminary, and the Coalition members fully expect to refine the project details and costs over the course of this proceeding and the environmental review process. However, fully developed engineering plans and precise cost estimates are not necessary to demonstrate that collectively, the mitigation measures that would be needed to try and accommodate Applicants' plans dwarf any public benefits of approving this aspect of the proposed merger.

- Nine grade separated crossings in the Villages of Bensenville, Itasca, Wood Dale, and Bartlett at an estimated cost of approximately \$315,000,000.
- Construction of a major interchange in Bensenville to directly connect IL83 and IL19, two major thoroughfares that are currently accessed through neighborhood streets, at an estimated cost of \$125,000,000.
- New construction and safety upgrades to approximately 20 existing at-grade crossings.
- Dozens of other measures required to mitigate the substantial increases in vibration, noise, damages to underground utilities and water pipes, and risks of accidents and delays caused by train movements and stoppages due to operational failures and other factors.

Clearly, the costs to mitigate the harms to the Coalition communities from the increased train operations over the Elgin Subdivision easily dwarf any potential benefits to the merged railroad, the Coalition communities, or the Nation at large from approving the merger as proposed. Consequently, the Coalition believes that OEA and the Board must conclude that the Applicant's proposed operations over the Elgin Subdivision cannot be adequately mitigated, and that therefore any approval of their merger must be conditioned on the Applicants modifying their Operating Plan to eliminate *any* additional freight rail traffic from traversing the western end of the Elgin Subdivision post-merger and to find other routings for such traffic. The Board must also establish a public process whereby, if the merged railroad wants to add traffic to this line post-merger, it must demonstrate it is operationally feasible and safe, subject to any and all appropriate mitigation measures. Finally, the Board must engage in a vigorous and pro-active oversight of the merger for a period not less than five years and subject the merged CPKC to strict reporting requirements and penalties for non-compliance.

These Opening Comments are supported by the accompanying Verified Statement testimony of Mr. Gary V. Hunter, Chairman & Chief Executive Officer of Railroad Industries

Incorporated (Hunter V.S.) Mr. Hunter has over 45 years of experience in railroad operations and management, and he has reviewed the Application and analyzed its potential effects on the Coalition members.

II. Factual Background

As summarized in Attachment A, the Coalition's members are towns and villages located in suburban Chicago with populations ranging between around 9,500 (Itasca) and 114,800 (Elgin, which is the sixth largest municipality in Illinois). The total aggregate population of the Coalition municipalities is approximately 325,000, and all are located along the line from approximately Milepost 17.3 (Bensenville) to Milepost 36.6 (Elgin).⁵

The Elgin Subdivision is situated in a heavily populated urban area that is already congested with rail tracks and roads. In aggregate, the Coalition's eight jurisdictions contain 54 road and pedestrian rail crossings, many of which already experience delays and disruptions due to freight rail trains transported by CP. Some of the areas within the Coalition members' borders along the tracks have been designated "Quiet Zones" pursuant to the rules and regulations administered by the Federal Railroad Administration (Bensenville, Roselle, Bartlett, and Itasca).⁶ Moreover, OEA has classified the section of the Elgin Subdivision running through the Coalition communities a Nonattainment Area for Clean Air Act pollution standards.⁷

A. The Elgin Subdivision and MD-W Line

1. Physical Description

⁵ See Attachment B.

⁶ <https://railroads.dot.gov/sites/fra.dot.gov/files/2021-05/FRAWebReport.pdf>.

⁷ See Applicant's response to OEA Information Request #1, filed October 28, 2021, and accompanying Maps designated Document No. EI-31354 at 3.

The Elgin Subdivision begins at “Tower A-5” in the City of Chicago where it connects with CP’s “C&M Subdivision” that runs north to Milwaukee and Minneapolis/St. Paul. From Tower A-5, the Elgin Subdivision extends westward for approximately 40 miles to Randall Road (Milepost 40.3), where the line connects with CP’s Chicago Subdivision and continues west to Sabula, Iowa. There, the track meets CP’s Marquette Subdivision which runs generally north/south to the rest of CP’s system that runs through Minnesota, North Dakota and Western Canada and other northern locations. CP does not own all of the Elgin Subdivision tracks. Approximately 34 miles of the main line tracks between Tower A5 and Almora, IL (west of Elgin) are owned and operated by Metra, which acquired them in 1989.⁸ The MD-W Line is a critical component of the Metra system, which it operates in coordination with CP. As summarized by the Board in a prior proceeding:

[CP] has the right to dispatch the [MD-W] Line and North Line by virtue of a 1985 trackage rights agreement with the Trustee of the Chicago, Milwaukee, St. Paul & Pacific Railroad Company (the Milwaukee Road). That agreement requires that priority be given to Metra’s operations. Metra acquired the West Line and North Line from the Trustee in 1989. Metra is also an explicit third-party beneficiary in a 2003 trackage rights agreement between CPRC’s Soo Line and DM&E/IC&E for the [MD-W] Line. Under that agreement, CPRC, as dispatcher of the [MD-W] Line, must act as a neutral gatekeeper to protect Metra’s service by limiting the number of IC&E trains on the [MD-W] Line.⁹

There are 21 Metra stations on the MD-W Line between Chicago Union Station and Elgin¹⁰ that serve the approximately 325,000 people in the Coalition municipalities and thousands of other greater Chicagoland residents, many of whom use the Metra system to commute to and from downtown Chicago. Consequently, a key consideration for determining whether this aspect of the

⁸ Control Application Operating Plan at 66.

⁹ STB Finance Docket No. 35081, *Canadian Pacific Railway Co., et al – Control – Dakota, Minnesota & Eastern Railroad Corp., et al* (Decision No. 11) (served September 30, 2008) at 13.

¹⁰ The MD-W Line terminates several miles beyond Elgin at Metra’s Big Timber Station.

proposed merger of CP and KCS is in the public interest is that the Elgin Subdivision is primarily used for commuter train operations in a very densely populated urban area. As demonstrated in these Opening Comments, however, Applicants have significantly downplayed the large number of people living near the Elgin Subdivision, the existence of commuter traffic, the extraordinarily large number of rail crossings and related safety issues, and the significant environmental and economic harms that will be caused to these communities by the Applicants' proposal to vastly increase freight operations over this piece of their combined system.

2. The Bensenville and Schiller Park Rail Yards

There are two major railyards located along the Elgin Subdivision, the Bensenville and Schiller Park Yards. The Bensenville Yard is CP's major classification yard and its intermodal terminal.¹¹ To the east 4.3 miles is the Schiller Park Yard, which also handles intermodal traffic. Bensenville was built in 1953 to handle more than 3,600 cars per day in the 1950's and 1960's by Chicago Milwaukie St. Paul & Pacific Railroad. By 2013, Bensenville was completely rebuilt and its primary function is now to handle intermodal traffic and other run through trains, not serve as a major classification yard.¹²

B. Current Rail Operations over the Elgin Subdivision and MD-W Line

Metra operates 38 trains per day during the week over the MD-W Line. On the weekends it operates 24 trains on Saturdays and 18 trains on Sundays.¹³ The major passenger windows are 5:30 am to 7:30am and 3:30pm to 6:40pm.¹⁴ Consequently, CP trains are not uncommon on the MD-W Line during weekday business hours between peak Metra morning and evening commuter

¹¹ Hunter V.S. at 4.

¹² *Id.*

¹³ *Id.* at 3

¹⁴ *Id.*

train times. Consequently, CP's freight operations must be coordinated with commuter operation through agreements between Metra and CP which call for CP to operate its trains during windows when there is no commuter traffic. This means that any accommodation of the expansion of freight operations by the merged carrier over the Elgin Subdivision would also be confined to trying to fit the increased volume in to the same defined time slots.¹⁵

KCS's system stops at Kansas City, Missouri and so it does not conduct any operations in the Chicago area. Freight traffic on the Elgin Subdivision now moves in and out of Chicago via CP's C&M Subdivision and the Elgin Subdivision, as well as via Detroit pursuant to haulage rights. This part of the CP system is referred to CP's Central Corridor in the Operating Plan.¹⁶ The Elgin Subdivision is CP's primary route to points south from downtown Chicago to Kansas City. The number of freight trains that CP currently operates over the western end of the Elgin Subdivision is not clearly set out in the Application. However, this number is generally understood to be three or four per day. The total number of freight trains operated over the entire Elgin Subdivision, which includes the tracks east of Bensenville (Milepost 17.3) that extend to Tower A-5, is approximately 16 according to the Application.¹⁷ This is due to the fact that trains operate over the eastern end of the Elgin Subdivision to move in and out of the Bensenville and Shiller Park Yards. According to Mr. Hunter's analysis, the average train length moved over the western end of the Elgin Subdivision is 100-200 cars, which is approximately or 10,000 feet, with

¹⁵ For its part, METRA has expressed concern about the Applicants' plans for the Elgin Subdivision, stating "The Application, by its own terms, will result in significant rail traffic increases on the Metra-owned MD-W Line and CP's adjacent Bensenville Yard, and may also impact traffic on Metra's MD-N Line." METRA Motion to Compel (MET-3), filed January 3, 2022 at 4.

¹⁶ Application, Volume 2, Page 266, Figure 2.

¹⁷ Hunter V.S. at 3-4. Operating Plan Appendix A. at 1 (Application Vol. 2, Page 364).

some trains reaching 12,000 feet – over two miles - in length.¹⁸ The length of the trains is significant due to the presence of the 54 crossings over the approximately 20 miles of track that runs through the Coalition members’ jurisdictions, meaning one freight train can stretch across numerous crossings, in some cases four or more.

C. Applicants Plans and Statements

In the Applicants’ own words, “[t]he Chicago area is a critical interchange for six Class I railways. According to the Chicago Metro Agency for Planning (CMAP), Chicago is among the most congested freight regions in the world, with freight tonnage estimated to increase by two thirds over the next 30 years.”¹⁹ Applicants also freely admit that “[t]his concentration of activity can have a negative impact on the speed and performance of rail movements and also presents challenges for the community, including motorist delays at crossing and transit delays on shared passenger/freight infrastructure.” Nevertheless, the Applicants significantly downplay the existence and use of the MD-W Line for commuter traffic in their proposed Operating Plan. Instead, Applicants make the blanket statements that “[a]t Chicago, the impact of the Transaction will be minimal,”²⁰ and that “the combined CP/KCS system will benefit Chicago-area shippers with new intermodal services connecting Chicago with Texas and Mexico.”²¹

As for the potential adverse effect on the Coalition communities, after initially noting blandly, and with remarkable understatement, that “[b]oth the C&M and Elgin subdivisions accommodate two daily commuter windows,”²² the Operating Plan essentially asserts there will be *no* adverse effect on the Coalition communities:

¹⁸ *Id.*

¹⁹ Operating Plan at 56.

²⁰ *Id.* at 57.

²¹ *Id.*

²² Operating Plan at 12.

The Transaction is projected to increase freight traffic by 7.1 trains per day on the western 24.2 miles of this line, between Almora and CP's Bensenville Yard. However, there is ample capacity for these additional train frequencies. The Elgin Sub is double track, with triple track east of Bensenville Yard, and train slot capacity is not a concern given the low current freight train frequencies and the ample infrastructure. Metra service will not be adversely affected.²³

The Application contains no analysis or data supporting the statements that “there is ample capacity for these additional train frequencies,” and “train slot capacity is not a concern given the low current freight train frequencies and the ample infrastructure.”²⁴ Moreover, the Applicants have stated that they intend to increase the length of trains that are run on their system.²⁵ However, there is no discussion about what the lengths of the trains will be that Applicants intend to run over the Elgin Subdivision/MD-W Line or the potential adverse effects of such trains on local communities. The Applicants simply assert that the additional 7.1 trains per day “will route directly in and out of CP's terminals (Bensenville and Schiller Park) on the northwest edge of Chicago using CP's underutilized Elgin Subdivision,” and that the incremental trains will handle “primarily intermodal and automotive loads.”²⁶ On the other hand, the Applicants have also stated that they intend to increase the number and frequency of hazardous materials cars transported over this line.²⁷

²³ Operating Plan at 66. Applicants assert that the full transition from the “Optimized Plan” to the full “Growth Plan” will occur within three years of the “Control Date,” meaning that they intend to rapidly implement their plans to triple the freight traffic on the Elgin Subdivision. See *Id.* at 263-264

²⁴ The Applicants further state that because KCS does not serve Chicago, “implementing the Transaction will not require any integration of operations there. Instead, the only effects will arise from changes in traffic volumes.” Operating Plan at 58.

²⁵ See, e.g. Operating Plan at 45-48.

²⁶ Operating Plan at 58. The Applicants also repeat their general statement that “From an infrastructure perspective the existing double track on the Elgin Subdivision will allow for this growth without impact to the METRA passenger service windows.”

²⁷ See Applicants Response to OEA Request for Information #1-5, Map showing hazardous materials cars per year, Elgin Subdivision - Segment C-ELGI-01.

The Application contains no explanation or support for the statement that the Bensenville Yard is “underutilized.”²⁸ Nor is there any explanation or support for the position that tripling the number trains per day during narrow time windows to accommodate commuter traffic will result in only “minimal” impacts.²⁹ Indeed, as explained by Mr. Hunter, it does not appear that the Applicants conducted any substantive modeling of their projected train operations.³⁰

As stated, the Application contemplates expansion of the Bensenville and Schiller Park Yards in part to build longer trains to be transported over the combined system.³¹ CPKC also plans to increase the average cars handled per day at the Bensenville Yard from 1427.7 train cars to 1795.5 train cars per day,³² which could potentially block at-grade crossings due to yard

Bensenville Metra, IL to Randall Road, IL.

²⁸ The Coalition has sought discovery from the Applicants to try and ascertain the basis for this and other general assertions in the Application about the ability of the western end of the Elgin Subdivision to accommodate their operating plan post-merger. On February 4, 2022, Itasca, on behalf of the Coalition, served on Applicants the “First Set of Interrogatories and Requests for Production of Documents of the Village of Itasca, Ill.” These requests sought information related to the general statements made by applicants about their plans for freight operations on the Elgin Subdivision post-merger and other relevant information. Many of the requests were similar to discovery requests submitted by Metra. The Coalition did not receive “Kansas City Southern and Canadian Pacific’s Joint Responses and Objections to Itasca’s First Set of Requests” until 11:19 PM on February 22, 2022. Moreover, many of the responses simply referred the Coalition to responses Applicants supplied to Metra about the effect of the operations on commuter traffic, and others simply pointed to locations of materials in the “Virtual Data Room” set up by the Applicants. Consequently, the Coalition and Mr. Hunter were not able to conduct a complete review of the information and data the Applicants maintain is responsive to the first discovery requests prior to the filing date for these Opening Comments. The Coalition anticipates there will be additional discussions with Applicants’ counsel about the production of responsive and relevant materials and information.

²⁹ Operating Plan at 57.

³⁰ Hunter V.S. at 5.

³¹ See Operating Plan at 50 (“Bensenville will see an increase of 112 cars for processing daily. Bensenville will be tasked with building four new merchandise blocks: to Shreveport, Sanchez, Monterrey, and San Luis Potosi. The latter block would be the second longest distance manifest block on the combined network at 2,160 miles, behind only the current Calgary to Montreal block at 2,388 miles. Bensenville will also face additional demand from anticipated growth in automotive and intermodal traffic.”).

³² OEA Submission Request 1-A3, Train Yard Volume, Bensenville Yard.

operations, including switching operations for trains entering the Bensenville Yard from the west. Finally, the Bensenville and Schiller Park intermodal terminals will go through a reconfiguration to expand their existing footprint of these two intermodal facilities. As of 2019, 687 intermodal units were handled. Future growth plans will increase to 1,273 daily units, which is a 586-unit increase, which will almost double the existing intermodal traffic.³³ The expansion of intermodal operations will also require the increase in truck traffic in and out of the yards and the Bensenville community. In fact, based on materials published by OEA, the number of trucks running in and out of the Bensenville Yard each day is expected to nearly double by 2027, from 383 (presumed growth without the merger) to 698 (merger related increase).³⁴

D. Coalition Member Discussions with CP

Starting in November 2021 and throughout February 2022, Coalition members, both individually and collectively, have participated in multiple meetings with representatives of CP to voice their many concerns with the Applicant's Operating Plan and the Application as it affects their communities. Such meetings have included representatives of CP and also sometimes representatives of an engineering firm retained by the Applicants. Unfortunately, the meetings to date have not produced any agreement on the part of the Applicants to scale back their plans to increase freight traffic over the Elgin Subdivision post-merger line in any respect. Nor have CP and KCS committed to take any actions that might mitigate the impact of their proposed operations to any of the Coalition members. Indeed, the Application does not contain any plans to invest any capital on this part of the Elgin Subdivision. It is the understanding of the Coalition members that

³³ Hunter V.S. at 5.

³⁴ <https://www.arcgis.com/apps/dashboards/665e5f3b1412406ea49454f573aefd35>
(Bensenville Yard link).

discussions with the Applicants about the impact of their operating plan on the western end of the Elgin Subdivision and their communities will continue over the course of this proceeding.

III. Argument

A. Applicable Standards

The Board’s consideration of proposed merger or control of two Class I railroads is governed by 49 U.S.C. §11324, which states in part that the Board “shall consider at least” . . . the effect of the proposed transportation on the adequacy of transportation to the public,”³⁵ and whether the transaction is consistent with the public interest.³⁶ Pursuant to the regulations that are applicable to the application process in this proposed transaction, which are the regulations implementing Section 11324 published at 49 C.F.R Part 1180 in effect in 2000, the Board “performs a balancing test” that “weighs the potential benefits to applicants and the public against the potential harm to the public.”³⁷ As to potential harm, the regulations state. “There are two potential results from consolidations which would ill serve the public—reduction of competition and harm to essential services.”³⁸ Further, “[a] service is essential if there is a sufficient public need for the service and adequate alternative transportation is not available.”³⁹ Finally, under §11324 and Part 1180, the Board has broad authority to impose conditions on consolidations.⁴⁰

Class I railroad mergers must also be consistent with the Rail Transportation Policy set forth at 49 U.S.C. §10101, which states in part that it’s the policy of the United States Government

³⁵ 49 U.S.C. §11324(b).

³⁶ *Id.* at §11324(c).

³⁷ 49 C.F.R. 1180.1(c).

³⁸ *Id.* at §1180.1(c)(2).

³⁹ *Id.* at §1180.1(c)(2)(ii).

⁴⁰ *Id.* at §1180.1(d).

to “to promote a safe and efficient rail transportation system . . .”⁴¹ and “to operate transportation facilities and equipment without detriment to the public health and safety.”⁴² For all the reasons discussed in these Comments, the merger of CP and KCS as proposed in the Application is not in the public interest because as proposed, the merger would greatly harm the Coalition and other users of that rail line. As such, the Board should not approve the merger without (1) directing the Applicants to alter their planned operations and divert additional traffic away from this line onto other merged carrier rail lines; (2) placing limitations on the timing, train sizes and frequency of new freight traffic on the Elgin Subdivision; and/or (3) directing other railroads in the Chicago area to provide operating rights to the merged railroad over their tracks to relieve capacity constraints on the Elgin Subdivision that would be caused by the merged carrier’s traffic.

B. The Applicants Have Greatly Understated the Degree to Which the Merger will Harm Coalition Member Communities

Despite readily acknowledging that railroad operations in the Chicago area are susceptible to disruptions from a variety of factors which “can create chokepoints for multiple carriers and impact freight movements across broad swaths of the rail network,”⁴³ and that “the risk of widespread service disruption is exacerbated by the region’s propensity for cold-weather events,”⁴⁴ the Applicants have not accompanied their pronouncement that freight traffic on the Elgin Subdivision will nearly *triple* over the next three years with any analysis or consideration of the potential for service disruptions that would literally shut down each of the Coalition member communities from functioning and cause severe safety, environmental, and other issues. Moreover, as discussed by Mr. Hunter, the Applicant’s estimate of 7.1 trains per day is likely

⁴¹ *Id.* at §10101(3).

⁴² *Id.* at §10101(8).

⁴³ Operating Plan at 56.

⁴⁴ *Id.*

understated. For example, the Applicants claim that a large benefit produced by their merger will be their ability to divert 6.6 trains per day from the Chicago area by routing them over the Marquette Subdivision.⁴⁵ However, they provide no indication of when the infrastructure required to achieve this goal will be constructed and when the diversion would begin. Until this diversion is fully implemented it appears that these 6.6 trains can only be transported to and from Kansas City over the Elgin Subdivision, which means they will be added to the 7.1 trains. If so, then the total number of new trains per day post-merger running over the western end of the Elgin Subdivision could be as high as *14 trains per day, roughly four times the current levels, and with more cars per train.*⁴⁶

Contrary to the Applicants' attempt to gloss over the substantial adverse effects their proposed Operating Plan will have on the Coalition member communities, even a cursory look at the tracks and road infrastructure of the Elgin Subdivision clearly demonstrates that the Applicants plans would result in harm that simply cannot be mitigated. As stated previously there are 54 crossings along the 20-mile section of line running through the Coalition's jurisdictions. The City of Elgin is reached by six river crossings, four of which are located in the City's downtown area along a one-mile section of the river and Elgin Subdivision. Consequently, existing Metra and freight CP train traffic on the MD-W Line regularly disrupt east-west vehicular traffic flow at the four river crossings.⁴⁷ A single 10,000 foot CP train can block all four crossings simultaneously, negatively impacting vehicular traffic flows, but more significantly, effective public safety response times cause by first responders having to drive

⁴⁵ See Operating Plan at 57 ("CP anticipates an incremental 6.6 trains per day over the Marquette Subdivision following the combination with KCS – volumes which will be routed around Chicago as opposed to through it.").

⁴⁶ Hunter V.S. at 6.

⁴⁷ See Attachment D, page 10 of 10.

around the parked train. These problems will only be exacerbated by tripling the number of freight trains and the trains being even longer. Other members of the Coalition have similar issues with rail crossings, many of which are presently at-grade. The only solution for the City of Elgin and the villages of Bensenville, Wood Dale, Itasca, and Bartlett would be the construction of grade separated crossings, interchanges, and/or underpasses, each of which will cost tens of millions of dollars to design and construct. Finally, to date the Applicants have taken no steps to recognize, let alone quantify, the adverse effects of their proposed increase in operations on noise, pollution, vibration, damages to underground utilities.

C. The Board Should Condition any Approval of the Merger by Directing Applicants to Modify their Operating Plan to Eliminate Additional Freight Traffic Over the Elgin Subdivision

Pursuant to 49 U.S.C. §11324(c), the Board has broad discretion to impose conditions on the merger of two Class I railroads. For all the reasons set forth above, which the Coalition expects to supplement and expand upon during the course of this proceeding, the Application is fundamentally flawed to the extent the merged railroad's operating plan intends to increase the current freight traffic levels on the Elgin Subdivision between Milepost 17.3 and Bensenville and the end of the Elgin Subdivision where it meets the Chicago Subdivision (Milepost 40.3). Applicants have provided no data or modeling to back up their Pollyannaish statements that there will be no impact, and in contrast, the Coalition members have identified and quantified (preliminarily) the significant harm that increasing existing freight traffic over the lines will cause. Consequently, the Coalition believes that the Board must condition any approval of the merger of CP and KCS with a requirement that the Operating Plan be amended to eliminate any traffic over this line post-merger in excess of current levels. Further, to the extent the merged CPKC believes incremental traffic post-merger would be operationally feasible and safe, it should be required to

obtain the prior approval of the Board for such additional traffic during the oversight period established for this proceeding, subject to any and all appropriate mitigation measures.

D. Applicants and the Board Should Identify Alternative Routings for the Increased Freight Traffic They Desire to Move Over the Elgin Subdivision

The Coalition defers to the expertise of the Applicants and the Board to determine the most appropriate alternative means for the Applicants to implement their merger while not adding any new freight traffic over the western end of the Elgin Subdivision. However, the Coalition suggests the following three alternatives that could be explored and analyzed during this proceeding. The first two of which are discussed in more detail in Mr. Hunter's Verified Statement.

1. The Issue Traffic Could be Rerouted Over other CP Lines Into and Out of Chicago and the Bensenville and Schiller Park Yards

An alternative that would utilize existing CP infrastructure to avoid the western end of the Elgin Subdivision would entail trains coming from Kansas City to be routed around the Elgin Subdivision by being routed north over the Marquette Subdivision to LaCrosse, and then over to the C&M Subdivision for transportation down to Tower A-20 or Tower A-5.⁴⁸ At Tower A-20, the trains could be transported into the Bensenville and Schiller Yards over CP and CN tracks, respectively. Trains destined for Kansas City from Chicago and points east, such as Detroit or Toronto, would move in the reverse direction.

2. Construction of a New Intermodal Facility West of Randall Road, Illinois

Another alternative that the Board should require Applicants and interested parties to explore in this proceeding that could also alleviate the harm to the Coalition communities would be the construction of a new intermodal facility west of Elgin in the vicinity of the Randall Road

⁴⁸ Hunter V.S. at 7.

junction with the CP Chicago Subdivision.⁴⁹ Such a new facility could be an exclusive modern intermodal and auto facility like other Class I railroads have built. This new facility would be constructed in lieu of expanding the Bensenville and Schiller Park Yards in downtown Chicago, thereby alleviating traffic and congestion on the Elgin Subdivision and in and around the two existing yards. CPKC trains could get in and out of the greater Chicago area without going into downtown Chicago.⁵⁰

3. The Potential Alternative Route Posed by CN's Responsive Application

The Coalition has also noted with interest the Description of Responsive Application ("Description") filed by Canadian National Railway Company and its rail operating subsidiaries ("CN") on January 12, 2022. In its filing CN stated that its "responsive application will ask the Board to condition any approval of a CPKCS merger on the divestiture of the KCS lines from Kansas City, Missouri to Springfield, Illinois (the "Springfield Line") to CN, pursuant to the Board's statutory authority to order 'the divestiture of parallel tracks' as a condition."⁵¹ As the Description notes, conditioning approval of the merger as requested by CN would create "a competitive routing option for the Kansas City-Chicago-Detroit corridor" to the merged railroad's Kansas City to Chicago route over which they have proposed to run more and larger trains on the Elgin Subdivision.⁵² The Coalition concurs with CN's statement that "[a]llowing CP to consolidate control over two routes between Kansas City and Chicago, Detroit, and Eastern Canada would reduce competitive alternatives for rail customers . . . ,"⁵³ and adds that the coalition believes this reduction in competitive alternatives makes it more likely that the Applicants' traffic

⁴⁹ *Id.* at 8

⁵⁰ *Id.*

⁵¹ Description at 1.

⁵² *Id.* at 2.

⁵³ *Id.* at 3.

projections for their use of the Elgin Subdivision are understated, and the current projections will be exceeded. If true, then the harm to the Coalition from the merger as proposed could quite possibly be even more severe than currently believed.

By facilitating rail-to-rail competition for the intermodal and automobile rail shipments the CPKC intends to transport over the Elgin Subdivision, the Board would provide a means for shippers to still move these commodities into and out of Chicago while alleviating the harm to the Coalition through competitive market forces. Moreover, the Board's conditioning authority is very broad, and the CN responsive application will provide an additional opportunity for the Board to address the severe issues faced by the Coalition. Specifically, the Board could condition the divestiture of the Springfield Line to CN on the requirement that CN provide the merged CPKC railroad with overhead trackage rights or haulage rights from Chicago to Kansas City to transport intermodal and automotive trains when necessary to alleviate congestion and service disruptions on the merged railroad's system in Chicago. The Coalition notes that CN has already stated in the Description that it would grant the CPKC certain haulage rights over the newly created route.⁵⁴

In summary, the Coalition finds the CN's proposal to be an intriguing potential condition for the Board to consider, and the Coalition intends to review and provide comments on CN's responsive application at the appropriate time pursuant to the procedural schedule in this proceeding.

E. The Board Should Engage in Extensive Monitoring and Oversight of this Merger Transaction

Finally, the Coalition implores the Board to condition any approval of this proposed Transaction on detailed monitoring and oversight of its implementation. As to the details of such a condition, the Coalition submits that in the Chicago area there are many parallels to the issues

⁵⁴ *Id.* at 9-10.

and concerns the Board faced in its consideration and eventual approval – with numerous conditions – of the acquisition of control by the Canadian National Railway Company (“CN”) and Grand Trunk Corporation of EJ&E West Company in Docket No. FD 35087 (“*EJ&E*”).⁵⁵ There, the Board established an initial oversight period of five years and reserved the ability to extend that period as needed. The Board also directed CN to submit monthly reports to the Board during the oversight period on certain operational subjects and directed CN to meet with Board staff “to establish appropriate measures and reporting procedures for this monitoring.”⁵⁶ The topics on which CN was required to submit monthly reports included “monthly reporting and monitoring of the operations of” at-grade crossings in the Chicago area.⁵⁷ CN was directed to include “all existing (historic) protocols for service or priority at these crossings and [to] report any changes that are made.” Importantly, in *EJ&E* the Board also directed CN to “report monthly to the Board any delays occurring at each of these crossings by freight and passenger trains of CN, others using CN, and crossing carriers.”⁵⁸ Conditioning any approval of the Transaction proposed in this proceeding on similar reporting requirements is necessary and appropriate, particularly in the Chicago area and especially the western end of the Elgin Subdivision. Similarly, the Board should direct CP and KCS to provide, on a monthly basis, “the following information pertinent to post-merger operations [on the Elgin Subdivision]: the number of trains operating over [the Elgin Subdivision]; the date and descriptive information about each accident or incident that occurs on the [Elgin Subdivision], including grade crossing accidents; and the date and descriptive information about each crossing blocking occurrence on [the Elgin Subdivision] that exceeds 10

⁵⁵ Docket No. FD 35087, *Canadian National Railway Company and Grand Trunk Corporation – Control-EJ&E West Company* (Served December 24, 2008).

⁵⁶ *Id.* at 26

⁵⁷ *Id.*

⁵⁸ *Id.*

minutes in duration.”⁵⁹ The Coalition also requests that the Board establish rules and procedures for Coalition communities and other communities affected by rail crossing delays, accidents, and other harms to seek money damages from the merged railroad for such events that occur over the oversight period.

IV. Conclusion

In conclusion, the merger of CP and KCS cannot be approved as proposed because the Applicants' plans for substantially increasing the number and length of trains over the western end of the Elgin Subdivision would inflict harm on the Coalition communities that could not be effectively mitigated without the expenditure of billions of dollars on a broad range of measures. Moreover, the Applicants have understated the extent to which the merged carrier would utilize this line, and therefore the harm it would cause. The Board must therefore condition any approval of the proposed merger on a requirement that the Applicants revise their operating plan to eliminate any increase in the number and size of trains that currently operate over the western end of the Elgin Subdivision, and also on the other measures set forth in these Opening Comments.

Respectfully submitted,



Thomas W. Wilcox
Law Office of Thomas W. Wilcox, LLC
1629 K. Street, NW Suite 300
Washington D.C. 20006
(202) 508-1065
tom@twilcoxlaw.com

*Attorney for the Village of Itasca, Illinois and
the Coalition to Stop CPKC*

Dated: February 28, 2022

⁵⁹ *Id.*

ATTACHMENT A

Coalition to Stop CPKC Members

Bensenville

President Frank DeSimone proudly represents Bensenville's 18,813 residents. Bensenville is 17 miles northwest of Chicago and the suburb is sought after for its quiet neighborhoods and bustling business districts. Companies such as Fortune Fish and Gourmet, US Foods, UPS Freight and Victory Auto Wreckers call this business-friendly suburb home. Within its nearly 6-square-mile boundaries, Bensenville has three public elementary schools, one public high school and the famous Edge Ice Arena. The Bensenville Police Department is honored to have been awarded the prestigious accreditation from the Commission on Accreditation for Law Enforcement Agencies, nationally recognized as the gold standard in public safety. Bensenville boundaries cross both DuPage and Cook counties.

Wood Dale

Named "One of the Safest Cities in Illinois" in 2019, Wood Dale has a population of 14,012 and is home to 676 thriving businesses, including an Amazon Fresh fulfillment center and Quest Diagnostics. Mayor Nunzio Pulice represents this 4.83-square-mile DuPage County suburb, which lies about a half-hour northwest of Chicago. Besides its three elementary schools and one high school, Wood Dale has 136 acres of sprawling park land and 14 park sites, including an 18-hole golf course with a driving range, a water park, a community center, and a nature center.

Itasca

Itasca and its 9,543 residents are also in DuPage County. Located just two miles west of O'Hare International Airport, Itasca is situated at the crossroads of Interstate 290, Interstate 355 and Interstate 390. As a result, prior to the pandemic, the town's population more than doubled during the work week when an estimated 20,000 workers poured into the Village's many business and industrial parks daily. Itasca shares a border with the popular Medinah Country Club and the suburb is often praised for its safe, quiet village feel. Jeff Pruyn is mayor of Itasca, which known to its residents as a walkable city, as most live within walking distance of the city center. Within its 5.14-square-mile border, Itasca has three public elementary schools and one private elementary school.

Roselle

Mayor David Pileski represents Roselle and its 22,163 residents. Just a 33-minute drive from Chicago, Roselle sits in both DuPage and Cook counties and covers 5.6 square miles. Not only is Roselle celebrating its centennial in 2022, the suburb has also received the Government Finance Officers Association "Distinguished Budget Presentation" award for the 31st consecutive year. Roselle is home to Lynfred winery, the largest and oldest continuously operating and bonded winery in Illinois, and Miracle Field, a ball field where children with disabilities play alongside nondisabled children.

Schaumburg

The Village of Schaumburg sits 30 miles outside of Chicago and about 11 miles west of O'Hare International Airport. Village President Tom Dailly represents Schaumburg's 78,723 residents and 7,249 businesses. Schaumburg is home to more businesses in Illinois than any other community outside of Chicago and is known to many as the economic center of the northwest suburbs. Woodfield Mall in Schaumburg is the second most-visited tourist attraction in Illinois. Schaumburg ranked as the 11th Best Place to Live in Illinois in 2018, according to *Money Magazine*. *Time* magazine named Schaumburg one of the "Best Places to Live in America."

Hanover Park

Hanover Park is a suburban community 30 miles northwest of Chicago, 17 miles from O'Hare International Airport and 45 minutes from downtown via the Metra Milwaukee District West Line. The village is home to 37,971 residents and 600 businesses. Hanover Park is in both Cook and DuPage counties and it is situated in the southwest portion of the "Golden Corridor." This corridor stretches northwest from O'Hare along the Northwest Tollway. Hanover Park has the youngest population of any Chicago northwest suburb with a median resident age of 32. A total of seven school districts, three community colleges and two library districts serve the village. The Hanover Park Police Department is not only CALEA accredited (Commission of Accreditation of Law Enforcement Agencies), but it is also part of an elite club, as less than four percent of agencies nationwide achieve accreditation.

Bartlett

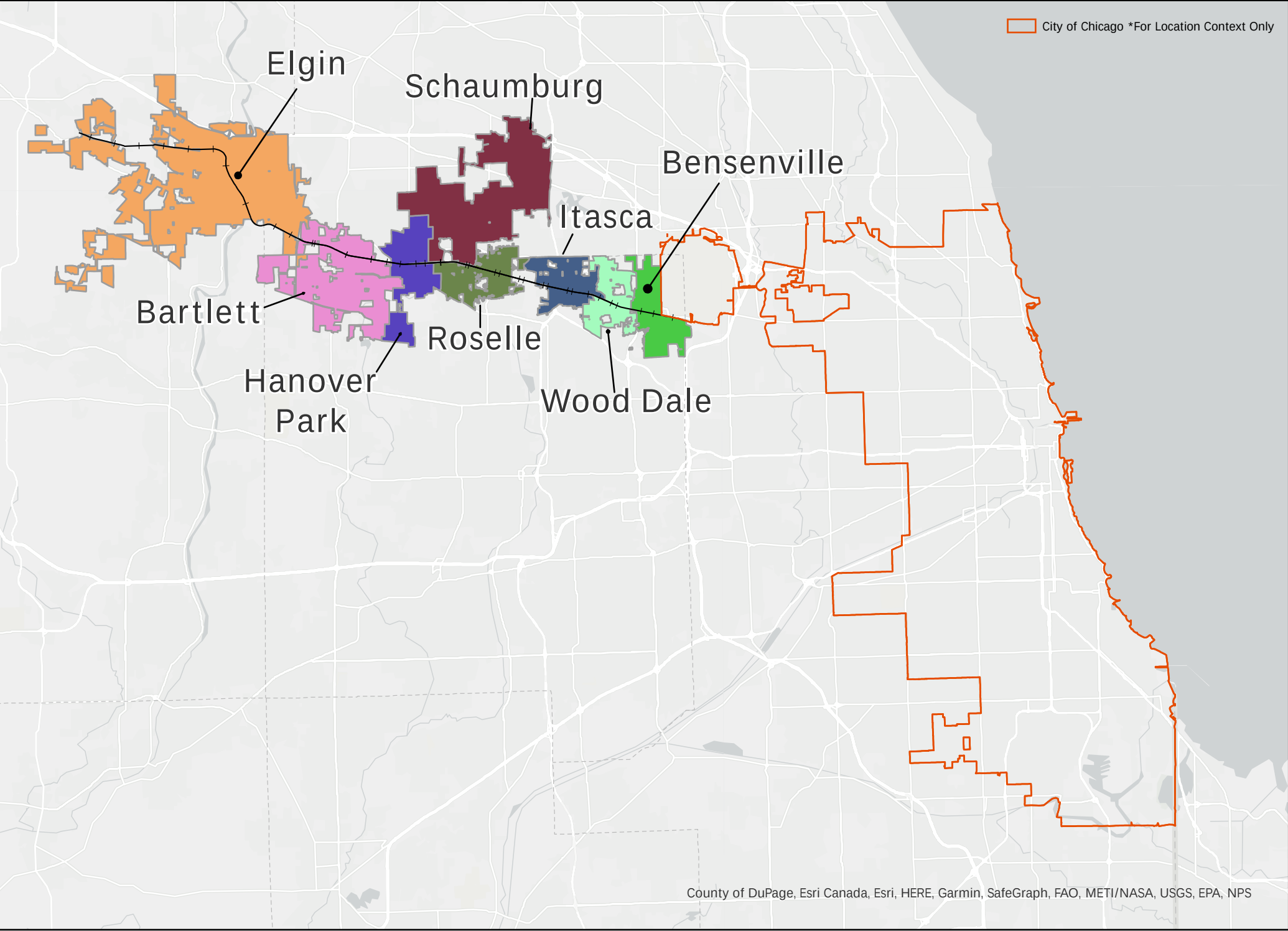
Bartlett is a Chicago suburb located in DuPage, Cook and Kane counties, about a 20-minute drive from O'Hare International Airport and 35 miles from the Chicago Loop. Village President Kevin Wallace has served Bartlett's 41,105 residents since 2013. Bartlett is home to Brewster Creek Business Park, one of the fastest-growing business parks in the Chicago area and one of the premier business parks in DuPage County. The village's stable economy has allowed it to maintain an A-1 rating from Moody's Investment Services. Bartlett covers 15.95 square miles and has 431 licensed businesses, including one urgent care facility. Bartlett also hosts one of the largest Little League programs in the United States.

Elgin

With a population of 114,797 residents and home to 2,554 businesses, Elgin is the largest suburb in the coalition and the sixth-largest city in Illinois. Located along the banks of the Fox River, Elgin is 38 miles northwest of downtown Chicago and lies in both Kane and Cook counties. Mayor Dave Kaptain presides over Elgin, its six river crossings, Fox River Bike Trail, zoo, museum, nature center, the second-largest school district in the state and the third-largest library building in Illinois. Elgin is known for its historic architecture and landmarks from the Victorian Era and three colleges, one of which is National Louis University.

ATTACHMENT B

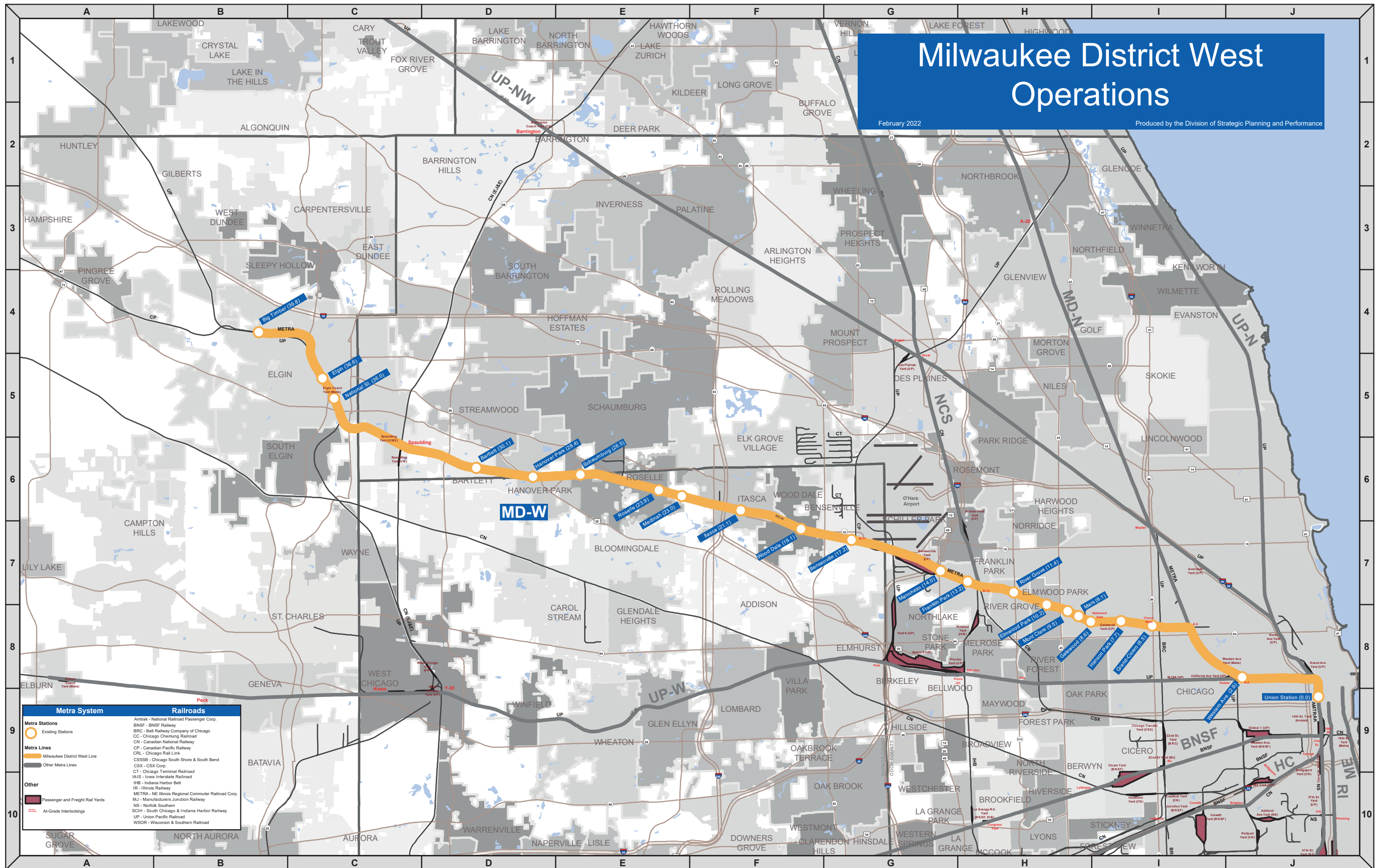
Coalition Members



Milwaukee District West Operations

February 2022

Produced by the Division of Strategic Planning and Performance



ATTACHMENT C

MITIGATION MEASURES IDENTIFIED TO DATE BY COALITION TO STOP CPKC

(All costs are preliminary estimates that have been prepared with varying levels of engineering analysis and design. The Coalition members expect to refine the project details and costs over the course of this proceeding and the Environmental Impact Study process)

Village of Bensenville	Estimated Costs
Construction of York Road Overpass / Bypass / Realignment (the primary road into the Village that is also closest at grade crossing to the Bensenville Yard)	\$75,000,000
Construction of Church Road Underpass	\$20,000,000
IL83 / IL19 Interchange Project (construction of interchanges to directly connect two major thoroughfares that are currently accessed through neighborhood streets)	\$125,000,000
Church Road Quad Gate Crossing	\$2,000,000
Center Street Quad Gate Project	\$1,500,000
York Road Quad Gate Project	\$2,500,000
Addison Street Quad Gate Crossing	\$1,500,000
Emergency Response Mitigations	
Construction of a New North Police Station	\$25,000,000
Fire District Staffing for both current Fire Stations	\$1,000,000 annually
Train Crossing Surveillance System	\$250,000
Vibration Impacts	
Vibration Dampers to all rails through the Village	\$3,000,000
Structural Vibration Mitigation (700 addresses)	\$7,000,000
Environmental Impact monitoring	\$500,000

Village of Bensenville Total Estimated Costs **\$264,550,000**

City of Wood Dale**Estimated Cost**

Wood Dale Road Median Replacement – Provide additional safety and risk reduction for current quiet zone by increasing the curb height of barrier medians as they provide more benefit to the quiet zone than the current flexible delineators	\$45,000
Irving Park Road Median Replacement – Provide additional safety and risk reduction for current quiet zone by increasing the curb height of barrier medians as they provide more benefit to the quiet zone than the current flexible delineators	\$45,000
Railroad ROW Fencing – Fencing shall provide a sealed corridor to combat trespassing into the right-of-way and access to stopped trains within the City limits	\$1,600,000
Residential Home Noise Mitigation –Each resident (including apartment, condominium and townhome rentals) receive an allotment for new windows to combat the additional noise the increased train traffic will create.	\$4,000,000
Residential Home Screening – Each property owner shall receive an allotment not less than \$5000 for landscaping along the railroad right-of-way.	\$550,000
Water Main Replacement – Water mains that cross beneath the RR tracks shall be replaced to combat premature failure due to increased vibrations on a daily basis.	\$800,000
Due to the delayed due to delayed responses to criminal acts in progress and for the investigation of acts that have occurred during a delayed response, the implementation of a citywide LPR/Surveillance camera system would assist in mitigation of these crimes and as a deterrent to crime	Initial costs \$66,000; yearly costs \$60,000. 5 year total \$305,750
Comp Plan - \$125,000	\$125,000
Construction of two underpasses at Wood Dale Road and a new location on Irving Park Road.	\$79,000,000
Expansion of The Wood Dale Fire Protection District	\$10,000,000 startup and \$5-6 million annual cost

City of Wood Dale Total Estimate Costs**\$96,231,000**

Village of Itasca**Estimated Cost**

Grade separation at Illinois Route 53/Rohlwing Road (<i>Requires IDOT cooperation</i>)	\$35,000,000
Grade separation at Catalpa Avenue (<i>Requires IDOT cooperation</i>)	\$36,000,000
Grade separation at Prospect Avenue (<i>Requires DuPage County cooperation</i>)	\$33,000,000
Emergency Vehicle Access to I-290 from Irving Park Road (<i>Requires IDOT and ITHA cooperation</i>)	\$2,750,000

II Route 53/Rohlwing Road Quiet Zone	\$250,000
II Route 53/Rohlwing Road Crossing - Upgrade to 4-Quadrant Gates	\$750,000
II Route 53/Rohlwing Road Crossing - Pedestrian Gates	\$500,000
Catalpa Avenue Crossing - Upgrade to 4-Quadrant Gates	\$750,000
Catalpa Avenue Crossing - Pedestrian Gates	\$500,000
Walnut Street Crossing - Upgrade to 4-Quadrant Gates	\$750,000
Walnut Street Crossing - Pedestrian Gates	\$500,000
Prospect Avenue Crossing - Upgrade to 4-Quadrant Gates	\$750,000
Prospect Avenue Crossing - Pedestrian Gates	\$250,000
ROW Fencing	\$1,200,000
Noise Mitigation - Windows / Sound Insulation	\$4,400,000
Landscape Screening	\$1,705,000
Water Main Replacements	
Rohlwing Road	\$300,000
Catalpa Ave	\$300,000
Prospect Ave	\$300,000

Village of Itasca Estimated Total Costs:**\$119,955,000**

Village of Roselle**Estimated Costs**

Establishment of full quiet zone from Medinah Road to Roselle Road. This includes four quadrant gates at Medinah Rd, Park St, Prospect St, and Roselle Rd. Also includes pedestrian active warning devices at 3 existing pedestrian crossings at Roselle Metra Train Station	\$9,000,000
Installation of pedestrian crossing active warning devices at proposed bike path Rodenburg Road at grade crossing	\$500,000
Pedestrian Bridge and path and/or Tunnel that connects the north of the train tracks at the Roselle Metra Train Station to our downtown.	\$5,500,000 to \$15,000,000
Miscellaneous residential and business noise abatement measures	\$2,500,000
1.5 miles of sound barrier along the rear property line of abutting residential property.	\$2,500,000

Village of Roselle Total Estimated Costs**\$20,000,000 to \$29,500,000**

Village of Schaumburg**Estimated Cost**

Rodenburg Road crossing improvements – quiet zone upgrade, pedestrian gates at the bike path	\$1.3 million
Pedestrian crossings at Metra Station – upgrade to install gates/barriers	\$1.5 million for 3 crossings
Rail spur construction (crossing pavement improvements)	\$400,000
EMS software – purchase, installation, and maintenance of software that will provide local emergency responders with real-time information on train crossings and any blockages	\$250,000
Clearing of trees/shrubs – clearing of plant material along the rail line that creates issues at the airport	\$300,000
Landscaping buffer for Briar Pointe – still need to determine feasibility and willingness of Association to accept additional landscaping	\$250,000
Wetland impacts – mitigations for any impacts to the adjacent wetlands	\$100,000
Outfall Structure Improvements – improvements to an outfall structure that runs under the tracks near Experior	\$250,000

Village of Schaumburg Total Estimated Costs**\$4,350,000**

Village of Hanover Park**Estimated Costs**

Measures to control increased vibration	To be determined
Measures to control increased noise through abatement program	To be determined
Establishment of a Quiet Zone within the Village	To be determined
Construction of a backup Police Station and Emergency Operations Center (EOC) as part of the Village's Fire Station #16 on the south side of the tracks further away from the area.	\$2,500,000
Funds to mitigate damages to municipal roadways and utilities near the tracks	\$2,500,000
Engage a professional engineering firm to perform an analysis on exactly what the impact of the rail expansion would be to the residents, businesses, infrastructure and emergency response and to assign expects short & long term impacts and assign projected costs.	
Multi-jurisdictional command vehicle to be utilized by the Village of Hanover Park Fire Department Emergency Management Division, the Police Department, and the Public Works Department to respond to any large-scale railroad incident or emergency.	\$500,000
Hazardous Materials monitoring and mitigation equipment, include but not be limited to 4 gas monitors, natural gas detectors, remote area monitoring, calibration equipment, single gas monitors, thermal imager cameras, chemical identification, volatile organic monitors, weather station, personal protective equipment, leak stopping equipment, product control, and decontamination equipment.	\$500,000.
Training equipment is needed to prepare our personnel for the increased potential of an emergency.	\$100,000

Village of Hanover Total Estimated Costs**\$6,100,000**

Village of Bartlett**Estimated Costs**

Grade Separation construction at Stearns Avenue and Route 49	\$40,000,000
Three pedestrian crossings at Oak and Western Avenues	\$1,200,000
Pedestrian rail crossing along Naperville Road	\$400,000
Hazard mitigation training for Fire District, Public Works and Police Department	\$600,000
Establish a sound/vibration mitigation fund to provide relief to the residents or businesses located in the impact zone.	\$2,800,000

Village of Bartlett Totals**\$45,000,000**

City of Elgin**Estimated Cost**

Option 1: National Street, Chicago Street, Highland Avenue and Kimball Street at grade crossings eliminated via underground rail tunnel	\$6,250,000,000
Option 2: At grade crossings at Elgin and Raymond Streets, McLean Boulevard, WestHighland Avenue ameliorated via aerial/overhead crossings (No underground facilities)	\$5,000,000,000
Option 3: Combination underground/ aerial	\$6,100,000,000
Option 4: Underground Tunnel Plus Full Track Upgrades	\$8,900,000,000
Establishment of Quiet Zones	\$6,250,000

City of Elgin Totals**\$5 to \$8.9 Billion**

ATTACHMENT D



Village of Bensenville Traffic and Quiet Zone Mitigation Projects

IL83 / IL19 Interchange Project

Church Road Underpass Project

York Road Overpass/Underpass
Realignment Project

Church Road Quad Gate Crossing

Addison Street Quad Gate Crossing

Center Street Quad Gate Crossing

York Road Quad Gate Crossing

Legend

Mitigation Projects

-  Quiet Zone
-  Traffic



0 260 520 1,040
Feet

Date: 2/9/2022



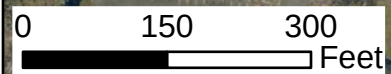
CITY OF
WOOD DALE

Mitigation Project

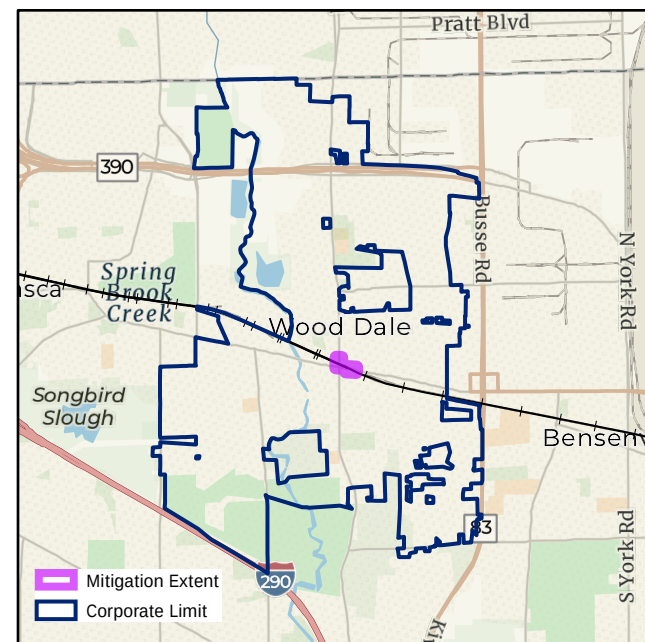
 Median Replacement

Wood Dale
Road Crossing

Irving Park
Road Crossing



DuPage County 2021

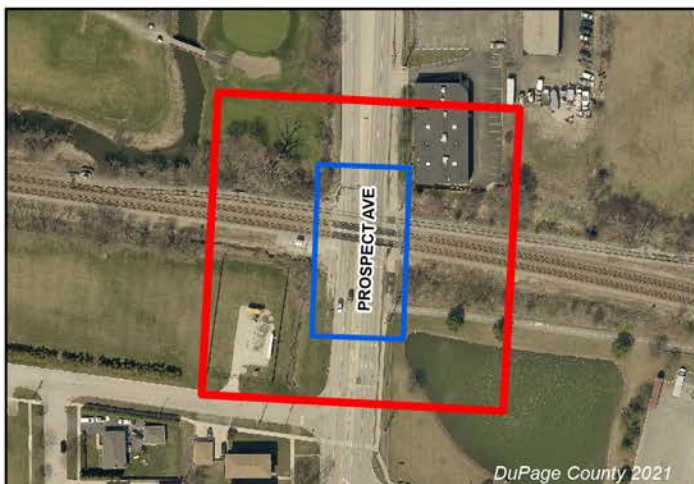




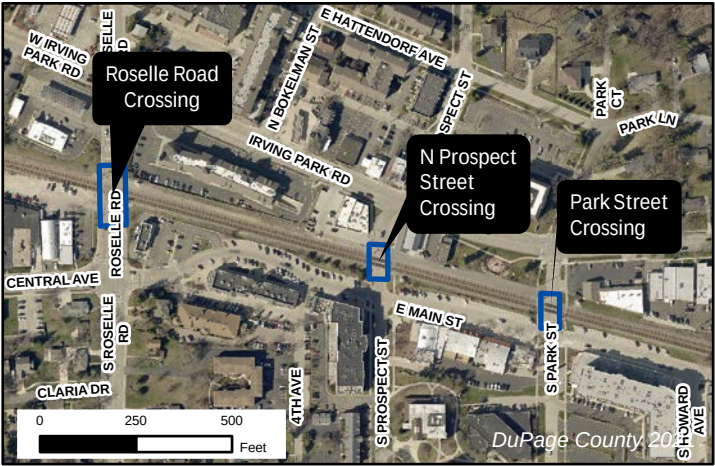
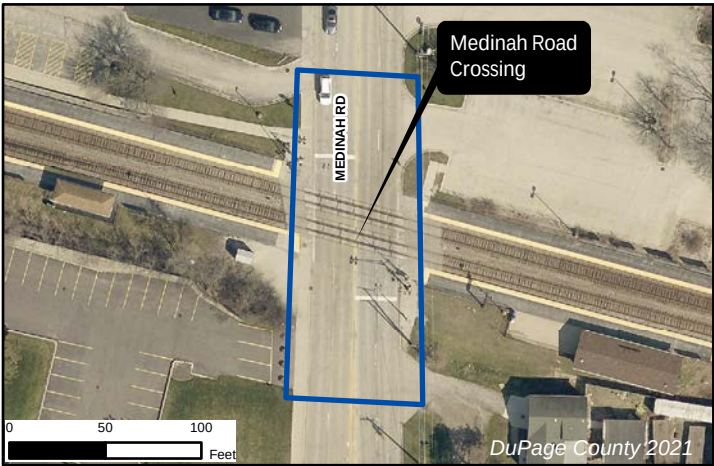
Mitigation Projects

- Grade Separation
- Four Quadrant Gates and Pedestrian Gates
- Emergency Vehicle Access

0 200 400
Feet



Quad Gates



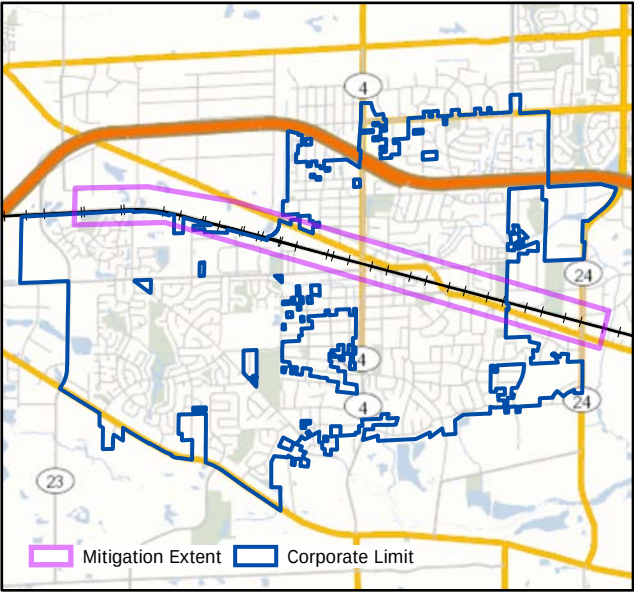
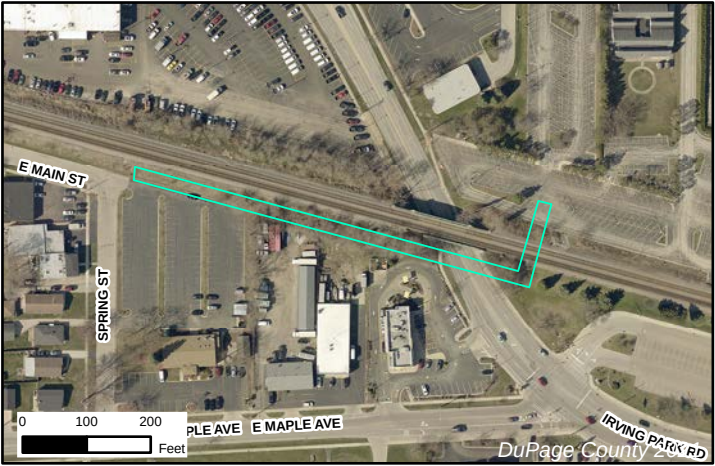
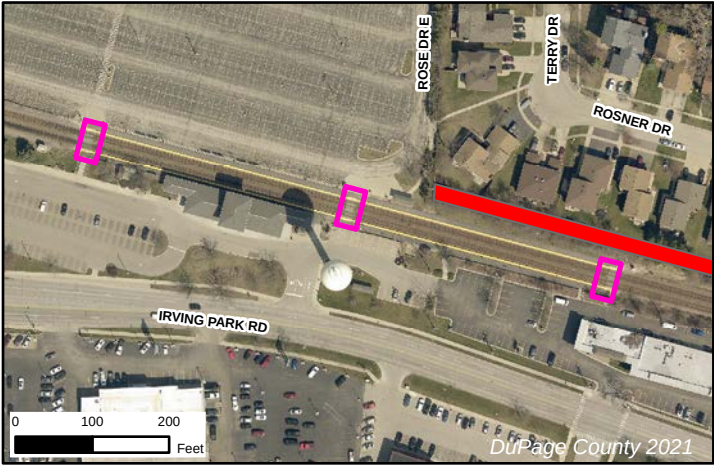
Mitigation Projects

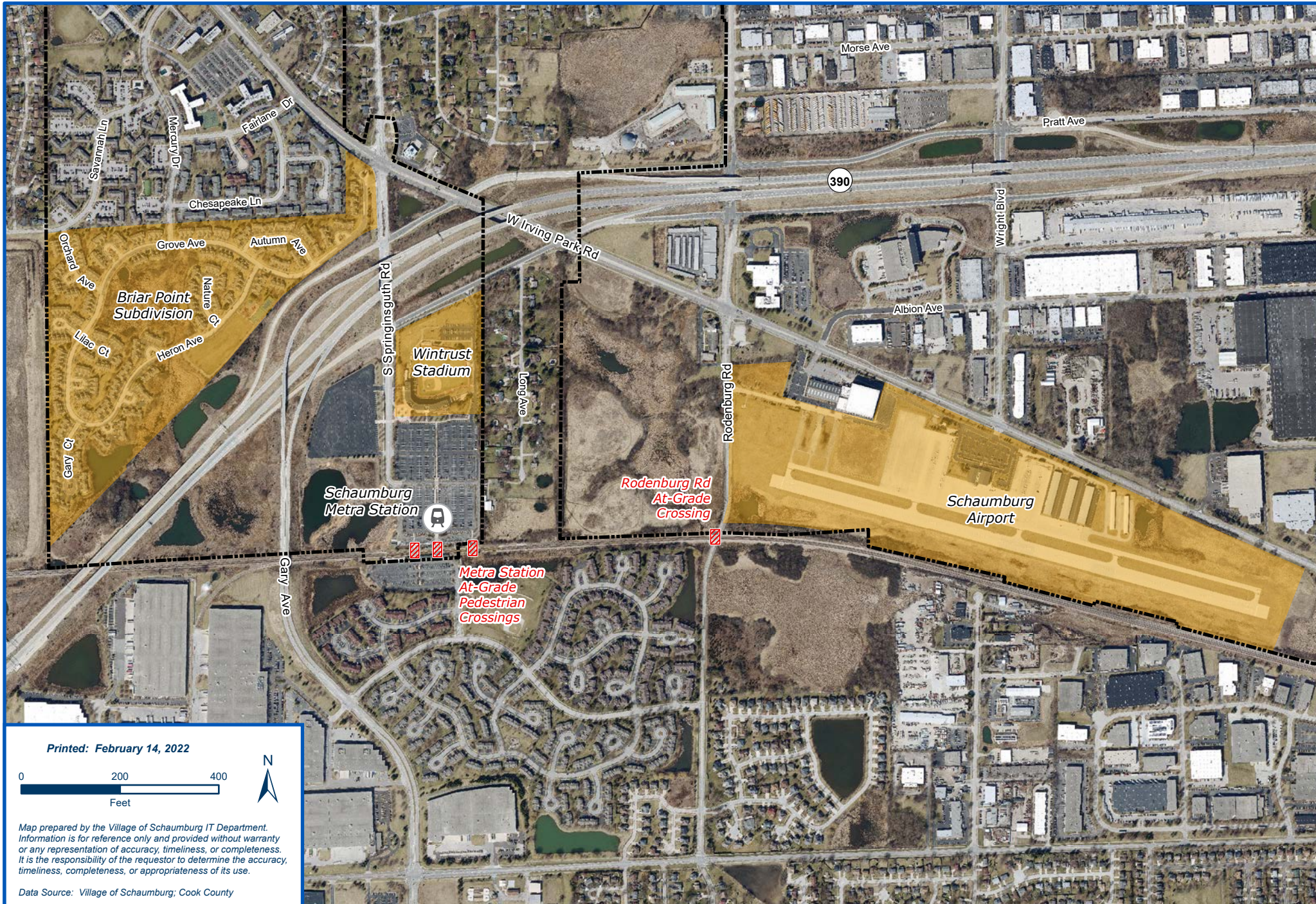
- Crossings
- Sound Barriers
- Pedestrian Active Warning Devices
- Pedestrian Pedway or Tunnel

Sound Barriers



Pedestrian Safety





Schaumburg Railroad Crossings



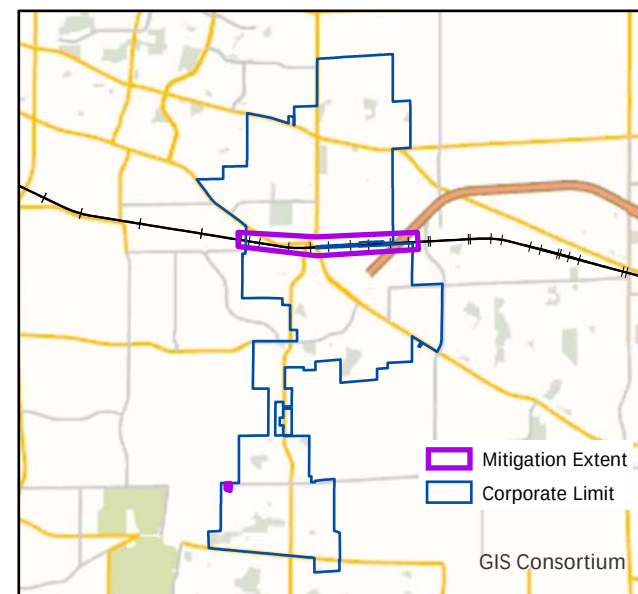
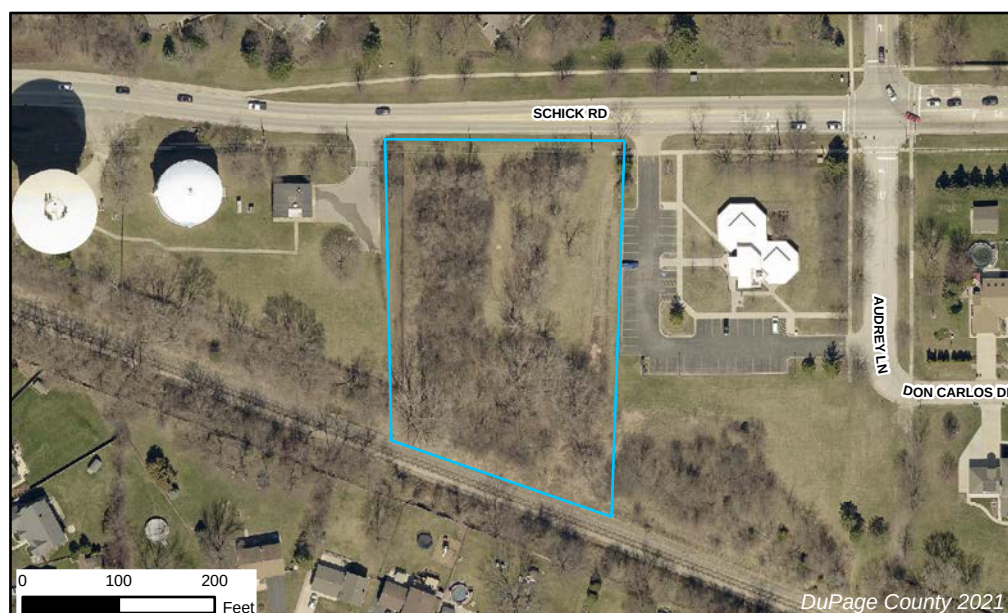
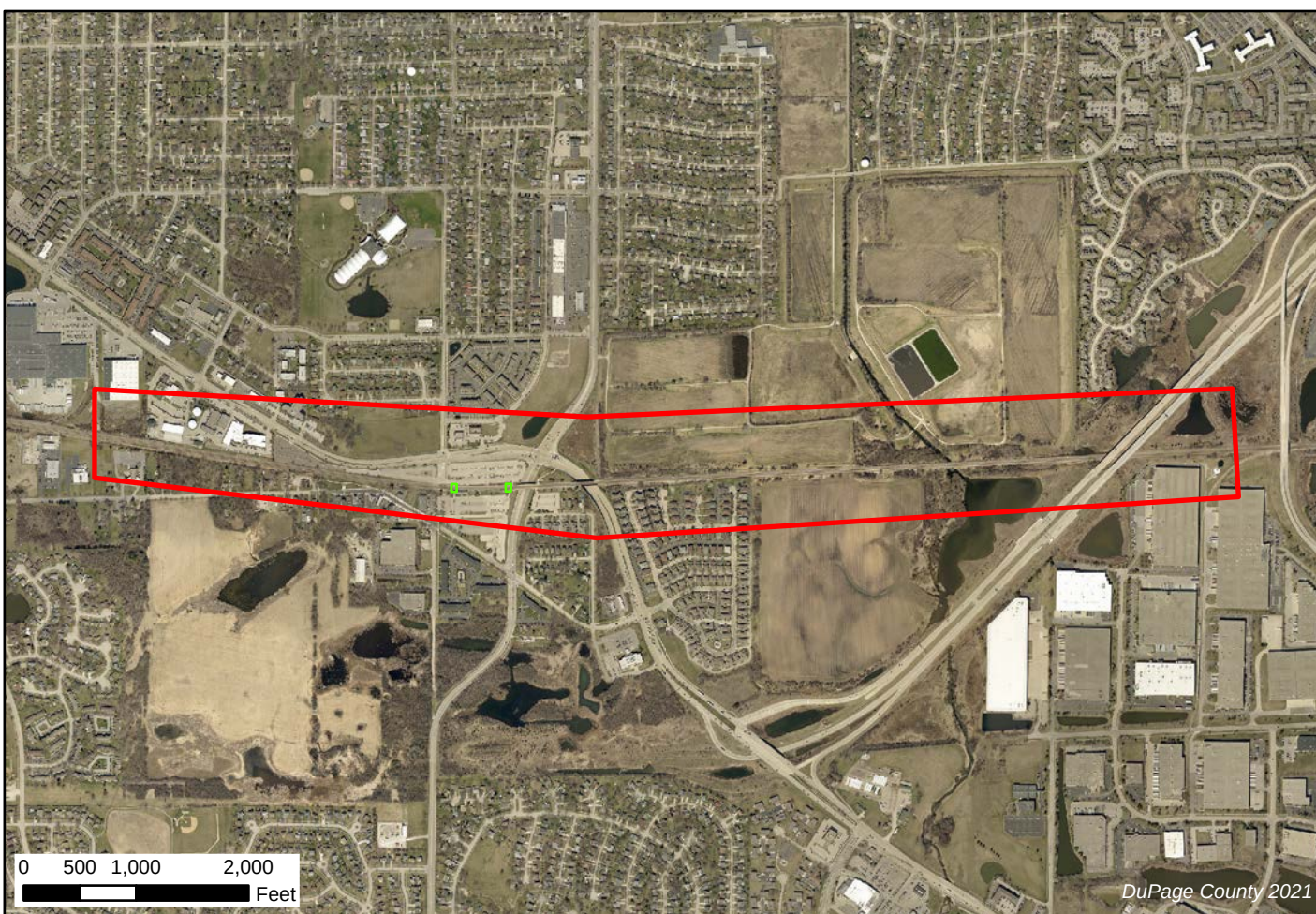
VILLAGE OF SCHAUMBURG

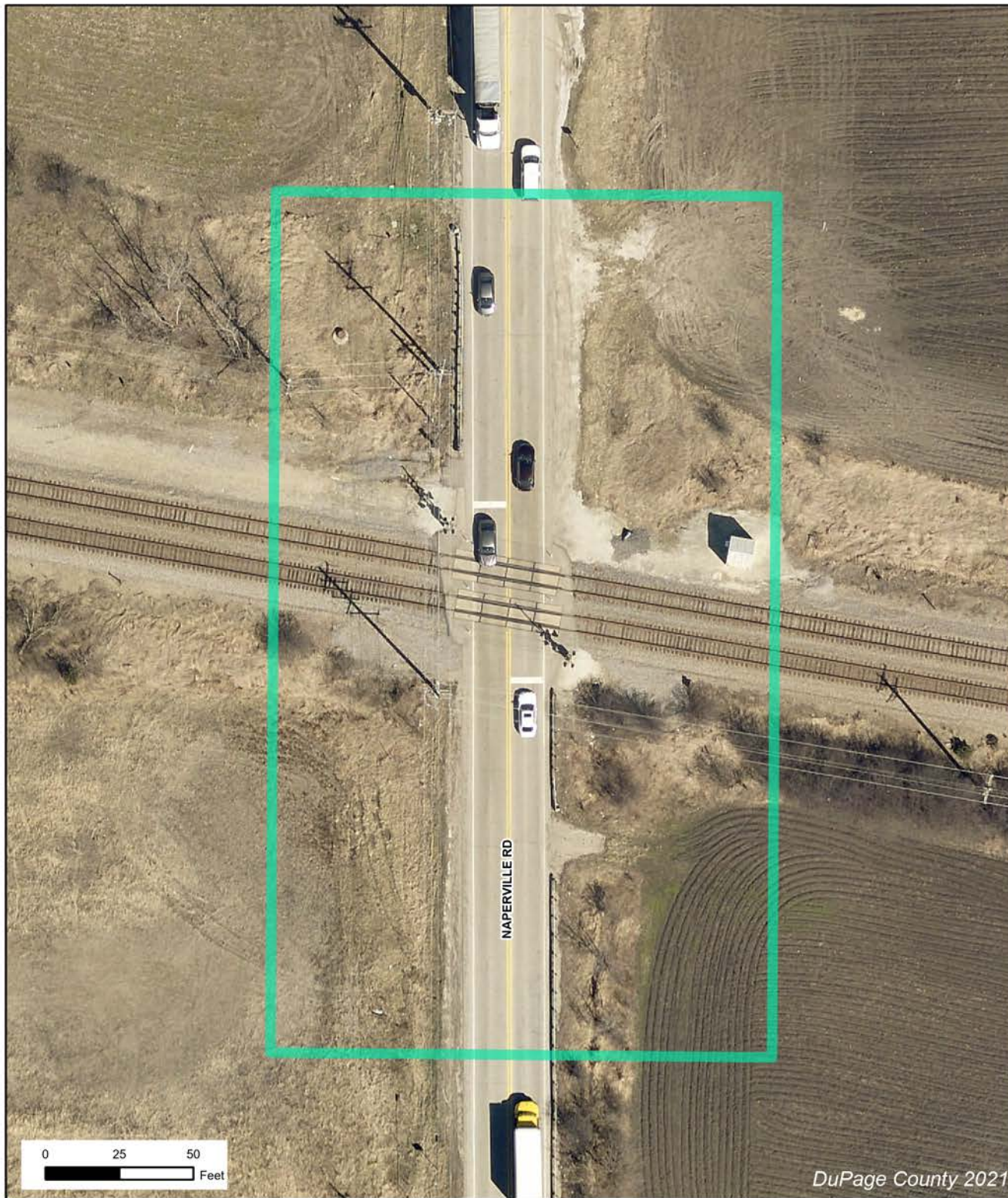


Hanover Park^{USA}

Mitigation Projects

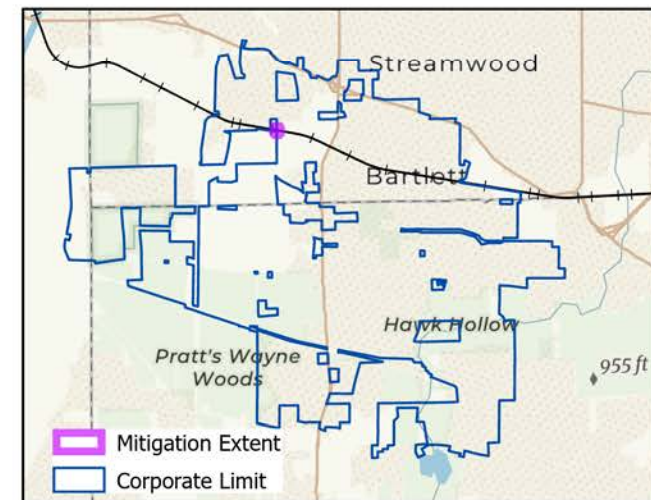
-  Quiet Zone
-  Backup Police Station and Emergency Operations Center
-  Pedestrian Crossing





Mitigation Project

 Pedestrian Crossing

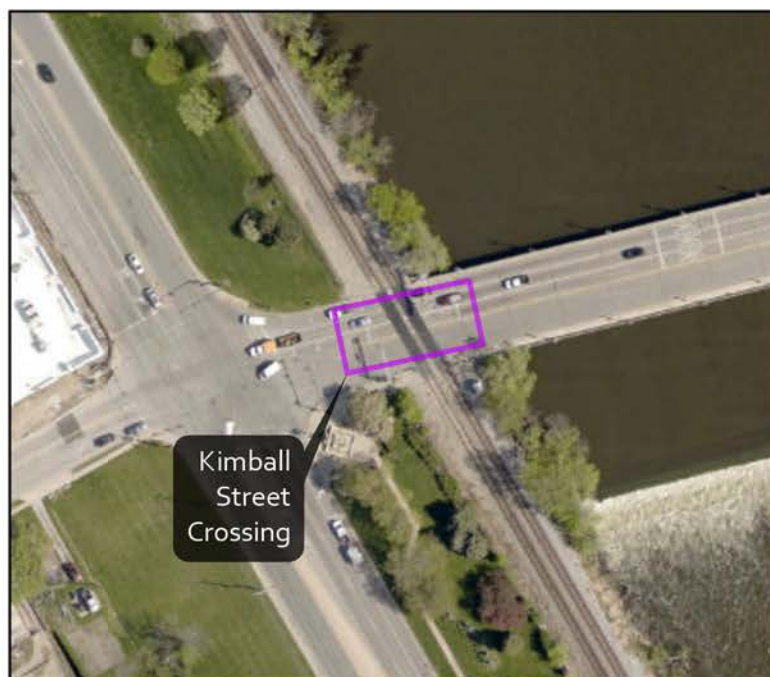
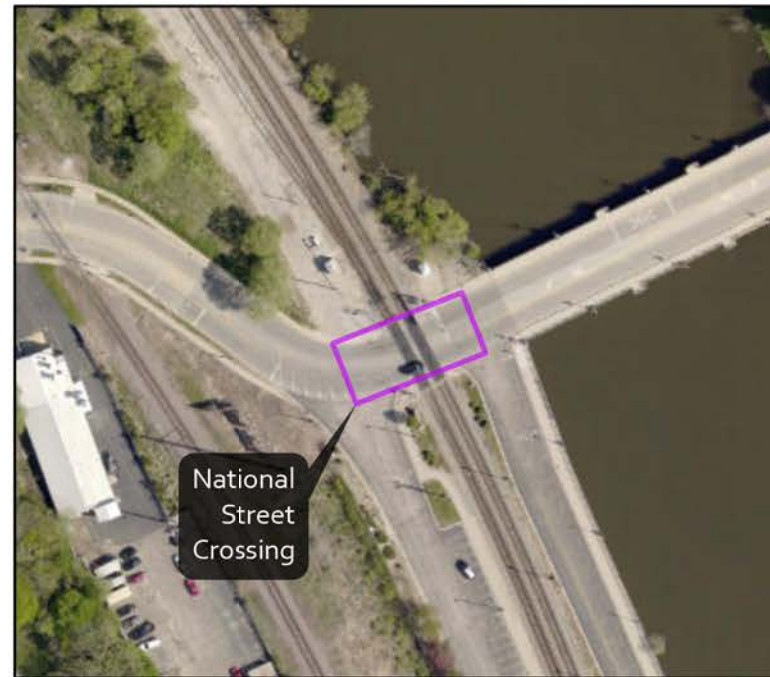
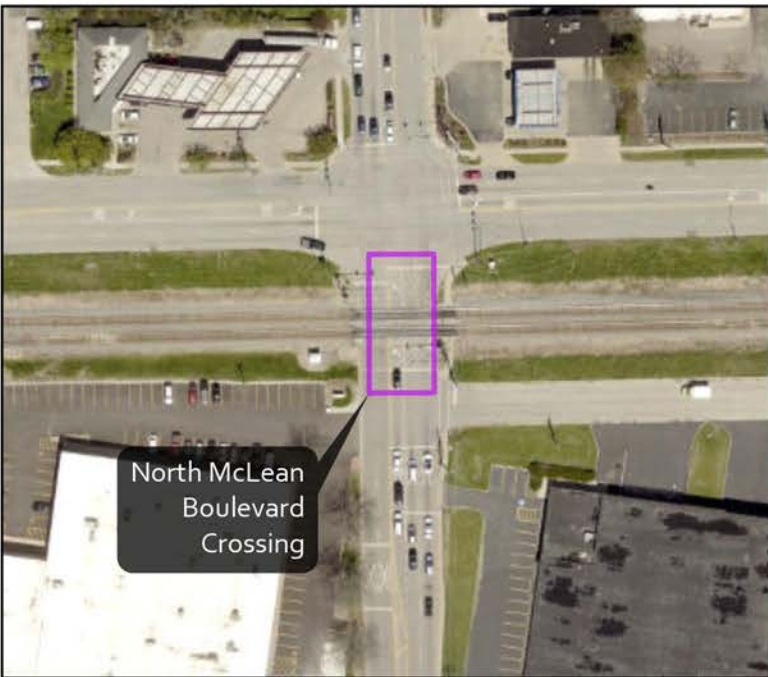
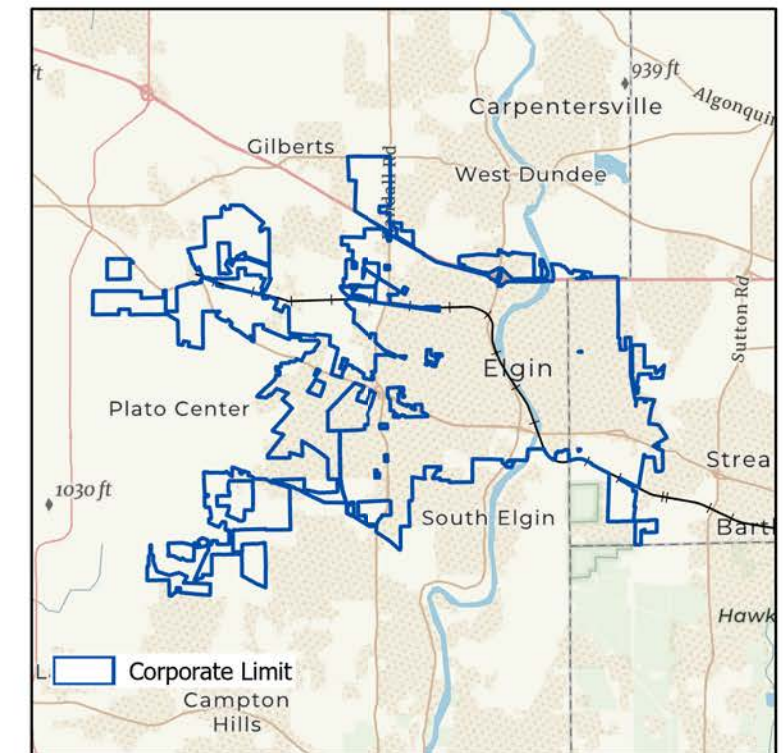


Pedestrian Crossing Gate Request Downtown Bartlett, IL.



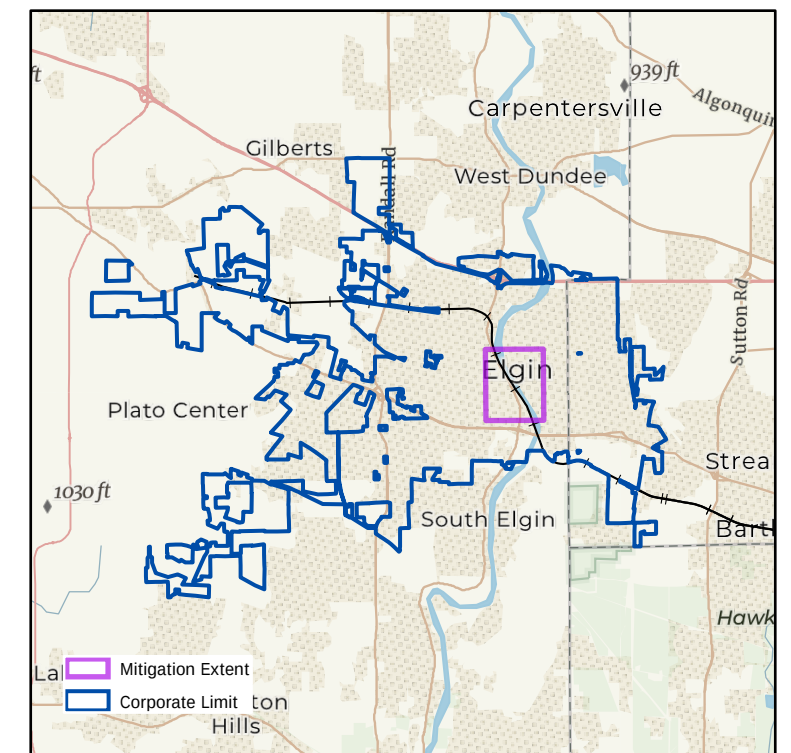


Existing 10 At-Grade Crossings



Mitigation Projects

-  At-Grade Crossing
-  Elimination of At-Grade Crossings



BEFORE THE
SURFACE TRANSPORTATION BOARD

Finance Docket No. 36500

CANADIAN PACIFIC RAILWAY LIMITED; CANADIAN PACIFIC RAILWAY
COMPANY; SOO LINE RAILROAD COMPANY; CENTRAL MAIN & QUEBEC
RAILWAY US INC.; DAKOTA, MINNESOTA & EASTERN RAILROAD CORPORATION;
AND DELAWARE & HUDSON RAILWAY COMPANY, INC.

—CONTROL—

KANSAS CITY SOUTHERN THE KANSAS CITY SOUTHERN RAILWAY COMPANY,
GATEWAY EASTERN RAILWAY COMPANY, AND THE TEXAS MEXICAN RAILWAY
COMPANY

VERIFIED STATEMENT OF GARY V. HUNTER

My name is Gary Hunter. I am the Chairman & Chief Executive Officer of Railroad Industries Incorporated, a full-time transportation consulting practice where my duties include operations analysis, marketing analysis, railroad mergers and acquisitions, financial analysis, equipment analysis, negotiations and sales, developing agreements, training and expert witness work, tourist railroads and short line railroads. I have held this position since 1994. Prior to forming Railroad Industries, Incorporated, I held positions in numerous railroad companies. From 1976-1981, I worked for the Western Pacific Railroad in the San Francisco Bay Area which included staff and direct line supervision of railroad operations and included coordination of schedules, assignments, and train performance, working with other company departments such as

sales and marketing, car distribution, train operations, traffic development, dispatching, car maintenance and mechanical.

From 1981-1987, I worked for the Southern Pacific Transportation Company based in San Francisco where I worked in the Market Planning Department, the Intermodal Department and in the Marketing Services Department. My responsibilities included developing agreements, developing short line railroads and working with transportation, operations and equipment utilization. From 1987-1989, I was a consultant with Transportation Marketing Services, Inc. My duties included equipment analysis, physical distribution, and logistics analysis, and I gave testimony and prepared traffic and revenue projections and traffic flow analysis for the Anschutz Corporation and Rio Grande Industries' acquisition of the Southern Pacific Transportation Company. I was also involved heavily in short line acquisitions and due diligence. In 1993, I became the General Manager for the Arkansas Midland Railroad, a short line railroad with 131 miles of track, 37 employees, and 21,000 annual carloads. A copy of my resume is attached as Exhibit A to this statement.

I have been asked by the Village of Itasca, Illinois, on behalf of itself and the Villages of Bensenville, Wood Dale, Roselle, Schaumburg, Hanover Park, and Bartlett, Illinois, to review the Railroad Control Application submitted by the railroad Applicants in this proceeding and analyze how their proposed rail operations over Canadian Pacific Railway ("CP's) Elgin Subdivision post-merger will impact this part of the merged railroad's system and the communities located along it. Specifically, I was asked to review the Applicants' representations concerning increased freight rail traffic over the line post-merger and analyze the extent to which such increased traffic levels are accurate, and feasible from an operational and safety standpoint. For the reasons discussed in this Verified Statement, I have concluded that the applicants' representations

concerning increased traffic levels and the ability of the Elgin Subdivision to handle such increases are both severely understated, and that the only solution to the significant harm that will be caused to communities along the Elgin Subdivision by this aspect of the proposed merger is for the e projected new traffic to be rerouted to alternate routes.

I. Current Use of the Elgin Subdivision

The Elgin Subdivision starts in Chicago at Tower A5 at Mile Post 0 and extends to Randell Road, which is at Mile Post 40.3. From A5 to Tower B12 (Mile Post 12.7), the line is controlled by Metra and has triple tracks, while dispatching the tracks from Tower B12 to Randell Road is controlled by Canadian Pacific and is double tracked. All tracks are under Centralized Traffic Control. All of the Coalition members are located west of the Bensenville Yard. On the Elgin Subdivision, this segment runs from Milepost 17.3 at Bensenville to Milepost 40.3 at Randell Road. As stated above, this part of the line is only double tracked and includes the many daily Metra trains.

Based on my review of the Metra website, Metra operates 38 trains per day during the week over this Elgin Subdivision, which is designated the Milwaukee District West Line (“MD-W Line”). Metra also operates 24 trains on Saturdays and 18 trains on Sundays. The major passenger windows are 5:30am to 7:30 am and 3:30pm to 6:40pm. Freight operations by Canadian Pacific occur during the windows when Metra is not conducting commuter service. While the information about current freight traffic levels on the Elgin Subdivision in the Application and other information provided by Applicants is not consistent, it appears that Canadian Pacific currently operates around 16 trains per day over the entire Elgin Subdivision from Tower A-5 to Randell, but that most of those trains operate over the eastern portion of the line from the Bensenville Yard to Tower A-5. CP currently operates 3-4 freight trains per day over the Elgin Subdivision on

tracks west of the Bensenville Yard where the eight communities are located. This traffic includes, but is not limited to, intermodal, automobiles and merchandise. Based on trains moved today, the average train length is 100-200 cars, which is approximately or 10,000 feet, with some trains reaching 12,000 feet in length.

The Bensenville Yard is Canadian Pacific's major classification yard and its intermodal terminal. To the east 4.3 miles is Schiller Park, IL, which also handles intermodal traffic. Bensenville was built in 1953 to handle more than 3,600 cars per day in the 1950's and 1960's by Chicago Milwaukee St. Paul & Pacific Railroad. It included 125 miles of track and 70 bowl tracks.¹ In 1995 after the Soo Line Railroad (Canadian Pacific) took over in 1985 the yard was handling less than 1,200 cars per day. The bowl tracks were reduced to 24. Also in 1995, more intermodal tracks (for trailers and containers on flat cars) were built. By 2013, Bensenville was completely rebuilt. The hump is gone and only a mini hump remains. The emphasis of Bensenville has been altered to handle intermodal traffic and other run through trains, not serve as a major classification yard. The classification infrastructure (hump, additional tracks, heavier tracks) would need to be reinstalled to handle the traffic currently being proposed by the Canadian Pacific-Kansas City Southern merger.

II. The Applicants' Plans for the Elgin Subdivision

As proposed, the Canadian Pacific/Kansas City Southern merger would result in a significant increase in freight train traffic over the Elgin Subdivision west of Bensenville Yard. Most of this traffic will be generated from current Kansas City Southern-served origins south of Chicago in the form of intermodal and auto trains. The Applicants state that their merger will

¹ A "bowl track" is a system of classification tracks resembling a bowl connected to a hump, which is an incline used for classifying and building trains. The system is operated electronically and ensures that the cars are properly classified as they enter the hump.

increase traffic over this segment 7.1 trains per day, or up to around 11 freight trains per day total. This three-year plan would nearly triple freight traffic on this line segment. However, as explained below, the 7.1 train per day increase appears to me to be low.

The Applicants plan on upgrading the Bensenville Yard and Schiller Park Yard to accommodate this increase in traffic. The Bensenville and Schiller Park intermodal terminals will go through a reconfiguration to expand the existing footprint of these two intermodal facilities. As of 2019, 687 intermodal units were handled. Future growth plans will increase to 1,273 daily units, a 586-unit increase which will almost double the existing intermodal traffic.

III. The Applicants' Proposed Plans are Flawed and Unreliable

A. The Applicants' Projections do not Appear to be Based on Detailed Modeling

The Applicants' Operating Plan is simplistic and provides little detail backing up its estimated traffic increases and whether the existing CP and KCS systems have the capacity to handle them. In my opinion and experience, the Applicants should have provided much more detail on not only the estimated number of trains but schedules, size (cars/tonnage), type of trains (intermodal, auto, grain, merchandise) and origin and destination of each train for determining alternative routing options. The Application also contains very little information on how the additional freight trains would be handled on the existing tracks west of Bensenville Yard in conjunction with the Metra trains. I understand that Metra might be exploring the issue of modeling estimated traffic increases in the Chicago area and their effect on available capacity, and I anticipate that the Coalition will review the results of such modeling and factor into the Coalition's participation in this proceeding.

B. The Applicants Have Likely Understated the Amount of Traffic that Will Flow over this Line in the First Three Years

An example of how the Operating Plan's lack of specificity obscures the real potential harm to the Coalition members is its statements that the adverse impacts of increased freight traffic in Chicago will be lessened because the merged carrier will divert 6.6 trains a day from the Chicago rail terminal by routing this traffic over CP's Marquette Subdivision. However, the Applicants also state that for this diversion to occur the merged CPKC will have to construct tracks and other infrastructure, and they provide no timetable for when such construction will occur and the diversion of the 6.6 trains will commence. The Operating Plan infers instead that the diversion will occur immediately, and accordingly it does not include any of the 6.6 trains in the estimated additional 7.1 trains that will run over the Western portion of the Elgin Subdivision. This results in a significant understatement of the number of trains that could run over the Elgin Subdivision in the first three years, because until the planned diversion is fully implemented, some or all of the 6.6 trains running to and from Kansas City to points north and east of Chicago will likely have to be transported over the Elgin Subdivision.

C. The Increased Traffic Will Cause Operational and Safety Problems

Today, the western section of the Elgin Subdivision handles 11,120,000 gross tons of freight. Even at the understated estimated increase of 7.1 trains per day, the gross tons of freight would increase to 29,749,000. This is approximately triple the current trains and gross tons of freight train traffic. Most of this traffic is going to be long intermodal and auto trains, but CP and KCS have not indicated the expected number of cars, amount of tonnage, or the overall length of the additional trains. Today, the Coalition members already face safety and other issues caused by train stoppages and delays, especially at the 54 pedestrian and road crossings that are included

in the Coalition's jurisdictions. The presence of potentially 14 new trains per day (7.1 plus 6.6) and the use of longer trains will dramatically worsen delays and safety related issues.

IV. The Applicants' Operating Plan Must be Modified to Reroute Trains from the Western End of the Elgin Subdivision

In my opinion, the current levels of freight traffic on the western end of the Elgin Subdivision should not be increased as a result of the merger, and the Applicants should instead revise their Operating Plan to reroute this additional traffic. Currently, trains utilizing the Elgin Subdivision come from Kansas City over the Chicago Subdivision to enter the Chicago area. Traffic from Kansas City destined to other places is transported north over the Marquette Subdivision to Minneapolis/St. Paul and points north. Trains moving west over the Elgin Subdivision from the Bensenville Yards come down from CP's C&M Subdivision to Towers A-20 and/or A-5 or originate from points east of Chicago such as Detroit and Toronto.

Consequently, a potential routing of additional traffic around the western end of the Elgin Subdivision that alleviates the harm to the Coalition communities but still enables the traffic to move in and out of Chicago could be as follows: The additional post-merger traffic coming from Kansas City would be transported north to LaCrosse, where it would then travel on CP's C&M Subdivision down from Milwaukee and the C&M Subdivision to either Tower A20 or Tower A5.² From Tower A20, the trains could continue on to the Bensenville Yard over the CP existing routing, or be sent to the Schiller Park Yard via trackage rights over Canadian National Railway tracks. Trains originating in Chicago or points east destined for Kansas City would be transported there via the reverse routing. This alternative routing should be feasible utilizing Canadian Pacific's existing routes and track structure.

² See Maps of "Alternative A" attached as Exhibit B to this Verified Statement.

As stated previously, the Applicants have stated that the 7.1 additional trains they predict will be transported over the Elgin Subdivision will be primarily automobile and intermodal trains (they have not indicated what commodities will be handled by the 6.6 additional trains they eventually expect to divert over the Marquette Subdivision). As such, I believe that the merged railroad could also alleviate the harm to the Coalition communities if they constructed a new intermodal facility west of Elgin in the vicinity of Randall Road.³ This new facility, which would be constructed in lieu of expanding the Bensenville and Schiller Park Yards in downtown Chicago, could alleviate traffic on the Elgin Subdivision and the two yards. Such a new facility could be an exclusive modern intermodal and auto facility like other Class One railroads have built. With congestion in the Chicago area, this will allow for trains to get into and out of the area without going into downtown Chicago. Canadian Pacific-Kansas City Southern could service the intermodal and automobile markets from this new point in the Randall Road area.

³ See Exhibit C.

Exhibit A - Resume

Key Personnel – Gary V. Hunter

Railroad Industries Incorporated *Full Service Transportation Consulting*

Gary V. Hunter

775-825-6570

gvh@railroadindustries.com

Experience

Railroad Industries Incorporated

Chairman and Chief Executive Officer - Reno, Nevada	1997-Present
Chairman and Chief Executive Officer - Hot Springs, Arkansas	1993-1997
President - Reno, Nevada	1983-1993

Mr. Hunter put his rail hands-on experience into his own consulting firm to provide expertise to rail shippers, railroads, public transportation and economic development agencies, private investors and other transportation service companies across the country. Work has included branch line analysis, equipment utilization and analysis, development of operating plans, market development, transportation costing, intermodal analysis, merger studies, developing short line railroads, and financial analysis. Mr. Hunter serves as the Chairman and CEO of the firm, managing all major business decisions, in addition to serving as Project Manager for most projects. He ensures quality control and provides most input for contract negotiations between Class I's, shippers and short line railroads, alternative operations scenarios and traffic development strategies. Projects of note include Expert witness services for injury, rate, equipment, operations, right of way, STB and contract issues; Project Management for Utah Coal Rail Line development; 100's of NLV and GCV evaluations for short line, regional and branch line railroads; yard and terminal operations analysis for 12 BNSF Railways' terminals nationwide; Contract switching, operations and economics analysis for shippers nationwide, including Procter and Gamble, Cargill Grain, AK Steel, Palladon Iron, Sierra Pacific Power, Martin Marietta Materials and Bayer Materials; and rail abandonment and acquisition projects in Maine, California, Louisiana, Oregon and Utah to protect rail service for future economic development.

<i>Arkansas Midland Railroad, General Manager</i>	1993-1994
Jones Mill, Arkansas	

Mr. Hunter was responsible for the overall operations of a \$5 million short line railroad which includes 131 miles of track, 37 employees, and 21,000 annual carloads. The maintenance of way, maintenance of equipment, operations, marketing and agency departments all reported to Mr. Hunter. In addition, Mr. Hunter was responsible for all purchasing activities and real estate transactions for the company.

<i>Transportation Marketing Services, Inc., Consultant</i>	1987-1989
Pleasant Hill, California	

Mr. Hunter was responsible for achieving revenue and profit objectives of the firm as directed by the President. His duties included market development, strategic planning, equipment analysis, physical distribution analysis, branch line acquisition analysis, competitive analysis, market research, contract rate negotiations, sales development, operations analysis, and development of business plans. He prepared testimony, traffic and revenue projections diversion estimates, and traffic flow analyses for the Anschutz Corporation and Rio Grande Industries in their acquisition of the Southern Pacific Transportation Company. Clients included the government, shippers, transportation companies, and port authorities.

Key Personnel – Gary V. Hunter

<i>Southern Pacific Transportation Company</i> , San Francisco, California	1981-1987
Marketing Services Department	1986-1987
Intermodal Department	1985-1986
Market Planning Department	1981-1985

In the Marketing Services Dept., Mr. Hunter was responsible for achieving revenue and profit objectives for the corporation as directed by the Assistant Vice President - Marketing Services. His duties included developing agreements with other railroads, developing a network of short-haul TOFC trains, and evaluating the competitive environment and implications for the corporation. He was involved with branch line sales and agreements, working with both investors and financiers to develop short line railroads. He handled SPTCo's application for trackage rights in the Union Pacific-Missouri-Kansas-Texas Railroad merger including a traffic flow analysis, diversion estimates, and revenue projections.

In the Intermodal Dept., Mr. Hunter was responsible for special studies on all aspects of domestic and international TOFC and container traffic as directed by Assistant Vice President - Intermodal. His duties included contract development and negotiations, developing and analyzing costs, developing and analyzing various markets, and pricing, representing approximately \$500 million in annual revenue.

In the Market Planning Dept., Mr. Hunter was responsible for the market development and pricing of the aggregate and cement commodities representing approximately \$80 million in annual review. He was originally hired as Assistant Manager, Market Development - Bulk Services (May 1981-July 1982), and promoted to Product Manager, Marketing & Sales - Aggregates and Cement (July 1982-1985). His duties included forecasting and analyzing of product market with objective of expanding SPTCo's market share, reducing operating costs, and increasing profit margin. Additional responsibilities included negotiation of contracts with customers, developing and analyzing costs, and commercial decisions involving equipment allocation and acquisition. In response to the Staggers (4R) Act, directed marketing efforts in aggregates/ cement from traditional single car rate to unit train contracts generating a 20% increase in SPTCo's share in the western railroad market. Over a three-year period, this represented a net contribution turnaround from an \$8 million loss to a \$5 million profit.

<i>Western Pacific Railroad</i> , Transportation Department San Francisco and Bay Area	1976-1981
---	-----------

Mr. Hunter's responsibilities included both staff and direct line supervision of railroad operations. Staff position reported to Director-Operating Administration. Responsibilities included projecting and monitoring of annual system operating budget of \$70 million; in-depth analysis of operating expenses; working with line managers to determine and coordinate individual terminal and district costs with overall system forecast; presentation of budget variances to Vice President-Operations; and providing guidelines and requirements for the programming of departmental reports. This line position reported to Division Superintendent. Mr. Hunter was responsible for directing rail operations in the district between Oakland and Stockton - the fastest growing region on the railroad, which generated \$15 million in gross revenue with an operating budget of \$2.2 million. The territory comprised a variety of rail operations; main and branch line, industry and road switching, interchange, and joint facilities. Mr. Hunter coordinated schedules, assignments, and train performance to customer requirements with other departments of the railroad (i.e. Sales, Car Distribution, Train Operations/Dispatching, Roadway, and Mechanical). He also supervised train and engine operating employees within the district in addition to 20 station employees.

Education

<i>Master of Business Administration</i> , San Francisco State University	1976-1979
Selected as Master of Business Administration "Alumnus of the Year"	1980
<i>Bachelor of Art, Business Administration</i> , San Francisco State University	1972-1976
Majors: Business, Transportation, and Real Estate	

Key Personnel – Gary V. Hunter

Awards

Selected to receive Strathmore's Who's Who for 2001-2005; This award recognizes individuals who have demonstrated leadership and achievement in their occupation, industry or profession.

Selected to receive the 1998-1999 Who's Who in Executives and Professionals; This award recognizes outstanding professionals.

Selected by Citation's to receive the award of Who's Who Among Rising Young Americans for 1992 and 1993. This award recognizes achievements in American Society and Business.

Selected by American Biographical Institute to receive the award of 2,000 Notable American Men for 1992 and 1993; this award recognizes past achievements and outstanding service to community, state and nation.

Other Activities

<i>Presentation, Gerson Lehrman Group on "Rail Industry Updates"</i>	2010
<i>Speaker and Presenter, Truckee Meadows Community College</i>	2010
TMCC Logistics Class Presentation on "Rail Industry Highlights"	
<i>Presentation, Gerson Lehrman Group on "Rail Industry Overview"</i>	2007
<i>Speaker and Presenter, American Short Line Railroad Association</i>	2008 Annual Conference
<i>Speaker and Presenter, Transload Distribution Association</i>	2007 Annual Conference
<i>Speaker and Presenter, North American Rail Shippers</i>	2005 SWARS Meeting
<i>Financial Advisor, Ansonia, LLC</i>	2004-2012
<i>Member, Board of Directors, Sierra Northern Railway</i>	2004-2011
<i>Presenter, Operation Lifesaver</i>	2003-2009
<i>Trustee, Philip E. Kalthoff Estate</i>	2000-2004
<i>Member, Board of Directors, and Treasurer, Meadowridge Homeowner's Association</i>	2002-2010
<i>Chairman of the Board and Chief Operating Officer, Reno Pacific Rail Corporation</i>	1998-2011
<i>Instructor, San Francisco State University</i>	1983-1993
"California Railroads" seminar in rail transportation developments, past, present, and future	
<i>Lecturer, San Francisco State University</i>	1985-1992
"Private Carrier Management" seminar in transportation management	
"Traffic Management" seminar in traffic management	
"Physical Distribution and Logistics" seminar in physical distribution	
<i>Career Mentor, San Francisco State University</i>	1984-1992
Work with students in career and education development.	
<i>Teaching Assistant, San Francisco State University</i>	1974-1979
"Railroad Excursions" Assisted professor in conducting tours and leading discussions	

Guest speaker at San Francisco State University, local groups, and associations; currently pursuing research on railroad management, equipment, innovations, history, future projections, transportation policies, and United States laws; Involved with business, management, and transportation consulting

Exhibit B

Alternate Route A

Kansas City to Chicago
Proposed Rail Traffic Flow



Exhibit C

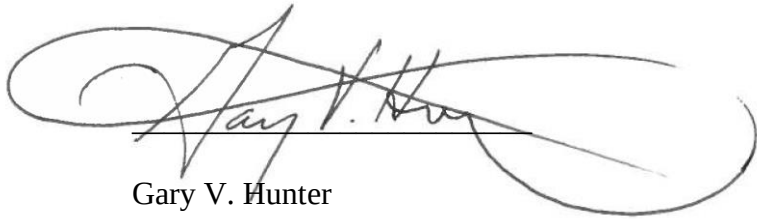


VERIFICATION

I, Gary V. Hunter, declare under penalty of perjury that the foregoing is true and correct.

Further, I certify that I am qualified and authorized to sponsor this testimony.

Executed: February 25, 2022

A handwritten signature in black ink, appearing to read "Gary V. Hunter", is written over a horizontal line. The signature is stylized with large loops and flourishes.

Gary V. Hunter

CERTIFICATE OF SERVICE

I hereby certify that on this 28th day of February a copy of the foregoing Opening Comments and Request for Conditions was served on each Party of Record listed on the official Service List for this proceeding.

Thomas W. Wilup
